

SHADOW FAMILY JUSTICE BOARD ADVISORY GROUP

Minutes

The seventh meeting of the Advisory Group took place at 4.00pm on 29th March 2023 via Webex Video Conferencing.

Attendees:

Debbie Maclam (LCJO) Chair
Julie McMurray (LCJO)
Joan Davis (Family Mediation NI)
Steven Allison (DoJ)

Secretariat:

Michelle Hanna (LCJO)
Catherine Di Maio (LCJO)

Welcome

1. The Chair welcomed everyone to the meeting and thanked members for their attendance.
2. The Chair wanted to pass on her thanks and best wishes on behalf of the Advisory Group to Mandy Kilpatrick who retired from the service, for her contribution not only to the Advisory Group but within her role in the LCJO.

Apologies

3. Apologies were noted from Dr John McCord (Ulster University), Natalie Whelehan (NSPCC) and Karen Ward (NICTS).

Minutes of the last Shadow Family Justice Board - Advisory Group Meeting on 7th November 2022

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

Business Continuity, Recovery and Modernisation

Lady Chief Justice's Office (LCJO) Operational Update

5. The Chair advised members that there had been no change to the guidance issued by the LCJO on the 22 June 2022 in accordance with Public Health Guidance, although it was hoped that updated guidance would issue next month (April).

Current data shows some signs of business recovery, provisional figures for Oct to Dec 2022 have just been published and are available [here](#).

The figures show that during the quarter there were:

- 508 sittings (1,436 hours).
- 1,056 Children Order Applications received and
- 1,121 Children Order Applications disposed.

In relation to waiting times the average waiting time for applications disposed was:

- 58.7 weeks for public and
- 40.3 weeks for private law.

In comparison with the same quarter in 2021 this was a decrease of 10% in public law (from 65.5 weeks) and for private law an increase of 5% (from 38.5 weeks). There was also a decrease of 7% in the number of sitting days, from 546 in the same quarter in 2021, to 508 in Oct - Dec 2022.

It is noted that figures for 2021 may not provide the best comparison and figures for the same period in 2019 have also been considered.

While this appears to show in terms of numbers of applications received and disposed a potential return to pre-Covid numbers the average times for disposals remains increased on the pre-Covid position.

Children Order	Oct - Dec 2019	Oct - Dec 2021	Oct - Dec 2022
Applications received	1033	1130	1056
Applications disposed	1110	1288	1121
Average waiting time for disposal - public law	51.0	65.5	58.7
Average waiting time for disposal - private law	30.6	38.5	40.3

6. The Chair advised members that the Chair of the Shadow family Justice Board wanted to see yearly figures along with quarterly figures so this will be included for the next meeting.

Judicial Modernisation

Judicial Advisory Group

7. Mrs McMurray updated members that the first meeting of the Vision 2030 Judicial Advisory Group (JAG), chaired by Mr Justice Huddleston, took place on 29 November 2022. While not a governance board, the JAG has been established to inform and advise the NICTS of the operational judicial modernisation requirements across all court tiers and business types; and to help give effect to the supporting culture and practice change within the wider judiciary and legal profession. It aims to complement other stakeholder advisory groups established under the Vision 2030 Portfolio. Nominated members represent the judiciary across all tiers (including the Chairs of the Shadow Civil Justice Council and Shadow Family Justice Board to align priorities and work focus), the Bar and the Law Society, including the Young Bar and the Young Solicitors Associations, and Vision 2030, reform, and operational leads from the NICTS and the Lady Chief Justice's Office. Members are expected to act as a channel to colleagues and peers in communicating and championing the business and culture change. At the meeting on 29th November 2022, it was agreed that small sub-groups would be formed from the overall membership to focus on particular business areas, which may be taken forward simultaneously, subject to capacity. Where appropriate, other 'experts' (e.g. academic) may be invited to contribute or join a sub-group for a defined 'project' or 'task', with meetings arranged to focus on particular, discrete or specialist areas of business, in line with the overall modernisation plan or priorities (as agreed with the NICTS). The nature and frequency of meetings and outputs required will evolve to translate high level aspirations into practical requirements throughout the initial scoping phases, to procurement and competitive dialogue and into lower-level design as the modernisation programme progresses over the next 5 years.

A sub-group dealing with 'Civil Case Initiation, Management and Progression' has now met on three occasions - most recently on 27 March - and is considering: judicial information requirements for online case initiation and progression; appropriate promotion/signposting of alternative resolution options or initiatives using an online portal; potential for e-service and digital signatures, and management information useful to the judiciary. The group has drafted a high-level process template and members will now consider how each court tier/ business type fits with the template and whether any process improvements can be made now, in advance of digital modernisation, with the aid of Practice Directions or protocols. A second sub-group dealing with 'Family Case Initiation, Management and Progression' has also been established and held its first meeting on 21 March. The template produced by

the Civil sub-group has been shared with the Family sub-group to assist with its discussions.

8. The Chair added that the sub-groups are to assist with courts getting a 'step ahead' with setting out judicial requirements.

Modernisation Update

Digital Programme

9. In Mrs Ward's absence members were referred to the summary provided stating that there have been 64 courtrooms upgraded with audio and visual technology with delays in final installs due to global chip shortages. Further stock has now been received, however due to lack of courtroom availability the remaining five courtrooms in Laganside will be completed over the summer recess. Technology will be installed into the three new remote witness rooms in Queens Court in April.

Work has continued on the Themis Project (formerly known as Future Core Solution) with the completion of a detailed draft requirements specification following extensive engagement with stakeholders. Competitive Dialogue procurement launched at the end of February, which is expected to last 15 months, and award of contract is planned for June 2024. A phased implementation process will then follow over a five year period.

10. The Chair advised members that the name Themis was suggested as it means 'the goddess of justice'.

The NICTS Research into Remote Technology

11. In Mrs Ward's absence members were referred to the summary provided stating that the NISRA report was published on the NICTS website in early December 2022. One of the priorities for the incoming year is how to deliver improvements to the technology used for remote and hybrid hearings. In 23/24 the team will scope out potential options for alternative video conferencing solutions for use in court and tribunal hearings to facilitate remote and hybrid hearings.

Service Design

12. In Mrs Ward's absence members were referred to the summary provided stating work on the implementation of a new case management system for the Official Solicitors Office and the Office of Care and Protection is progressing, however the go live date has now been moved to July 2023 due to issues identified when completing data migration testing. Work is continuing on the development of a new case management system for Parole Commissioners NI which is due to go live at the end of July 2023. Discovery

work has progressed in relation to the end to end jury management process and Enduring Powers of Attorney and discovery reports are being prepared for review and to inform next steps.

Estates Programme

13. In Mrs Ward's absence members were referred to the summary provided stating in regards to the work on the Royal Courts of Justice Infrastructure Upgrade Project, the Integrated Consultancy Team has successfully completed Stages 0-1 and the draft OBC has been completed. Work on the upgrade of the Old Town Hall is also progressing with The Coroners Service NI being agreed as the future anchor tenant and a high level schedule of requirements for use in the future procurement competition have been developed.

In addition, work has been initiated on a revised SOC for the North West Accommodation Project, and a Conservation Management Plan has been completed for Bishop Street Courthouse. Further work has also been completed on the Estates Strategy including the establishment of an Estate Strategy Advisory Group, and the securing of support from SIB to facilitate workshops which are planned for April – June 23.

Vision 2030 Workplans

14. In Mrs Ward's absence members were referred to the summary provided stating work is ongoing to prepare the delivery plans for the incoming financial year – these plans must balance up business priority requirements with staff and financial resources available to the team. The overall plans for the 2023/24 year will be shared and discussed with the Vision 2030 Portfolio Board and the LCJ in advance of finalisation.

Problem Solving Courts

Family Drug and Alcohol Court (FDAC)

15. Mr Allison updated members that the evaluation of the family drug and alcohol pilot is nearing completion. The pilot was a joint DoJ, DoH initiative and next steps will be subject to consideration by both incoming Ministers and budgetary constraints.

Mr Allison added that time needs to be spent on the evaluations and any gaps identified.

16. The Chair questioned if there is a budget going forward.

17. Mr Allison stated that there had been good ministerial support for the pilot but with the current absence of local government progress was difficult as the budget requires to be signed off by a Minister.

Voice of the Child and Vulnerable Adults

Registered Intermediaries (RI)

18. Mr Allison updated members that work is ongoing to determine potential next steps following the Department's consultation exercise last year. Decisions will be a matter for the incoming Minister. 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

Department of Health (DoH) & Department of Justice (DoJ) Private Family Law Early Resolution Action Plan

19. Mr Allison updated members that good progress continues to be made with a number of tools for separating parents, including unrepresented litigants being readied for launch. Consideration is now being given to what might be achieved next in the context of current budgetary constraints.

Mr Allison added that not a lot of money needs spent on the pilot. Story boards need completed and an animation/video will be produced which should produce a good return with the small investment required.

20. The Chair stated that more support pre-court stage would be beneficial, and court should be the last resort.

21. Ms Davis advised Mr Allison that Family Mediation NI had not been consulted regarding the proposed court pilot, animation or Co-parenting plans referred to. She agreed that there should be more access to pre-court support and said the approach to family breakdown requires greater debate and more information and education is required as per Gillen recommendations. Ms Davis advised members that she had been involved in the Ulster University LiP work and did feed into the Pathfinder tool. She said that there was a significant investment in LiP's which covers only a small number of people, and it is important to invest in out of court mediation, counselling, trauma support, and resolving conflict as set out in the Gillen Review Recommendations.

22. The Chair said that the Pathfinder tool provided a platform for anyone involved in family courts and while she wouldn't disagree that there should be more funding for mediation this wasn't in our control.

23. Mr Allison suggested to Ms Davis that since the tools were not yet finalised, the input of Family Mediation NI would be welcomed and undertook to have them forwarded to her.
24. Ms Davis advised members that 42% of parents who come through mediation are not married, so a legal divorce is not relevant. She suggested that we focus less on divorce stats, as not a real reflection of current demands. Ms Davis, stated that FMNI continues to work with the Law Society so that family lawyers understand what family mediation is and that it is not an advice or counselling service. She said that Naomi Long had championed their cause and had understood the link between early intervention preventing negative long term impact on children.
25. Mr Allison said that he welcomed Ms Davis' views and that she had made a number of valid points. He said a mediation pilot was on the way, but this was another area that awaited Ministerial input.

Action: Mr Allison to send information to Mrs Davis.

Public Law Systems

Children's Court Guardian Agency & Social Worker Resources & Reports

26. In Mrs McDaniel's absence members were referred to the summary provided stating that Children's Court Guardian Agency, like other parts of the HSC remains under pressure. Ms Shaw had written to Mr Justice McFarland on the 10th January to inform him and other Judges about the ongoing pressures.

At that time there were 75 unallocated cases, involving 147 children. This number has continued to increase and of 13th February 2023 there are 81 unallocated cases, involving 144 children.

Children's Court Guardian Agency currently have 4 Guardian vacancies, due to retirements and an internal restructure to support the allocation process. A number of Guardians remain on long term sick leave and they are impacted by the current industrial action which includes not providing cover for vacancies or sickness which has added to the pressure. The cases continue to be triaged and those most urgent cases where removal is required are allocated as a priority. The recruitment process has commenced for two of the vacant posts.

Following the request from Professor Ray Jones, who is leading on the Independent Review of Children's Services within NI, a meeting was arranged for Monday 5th December 2022, in person in the Judges chamber. The meeting was attended by Professor Jones and members of his review panel, Mrs Marie Roulston, Judge Patricia Smyth, Eilís McDaniel, Bláithin

Cleland and Dawn Shaw. The time was used productively to inform Professor Jones about current practice within the public law processes.

Department of Justice (DoJ) Expert Witnesses pilot scheme

27. Mr Allison updated members that the evaluation process is in the final stages and the department are not yet in a position to share data other than the previously shared figure of the General Authority being used in 95 percent of cases. Views would be welcomed from the Shadow Family Justice Board and Advisory Group members on the operation of the pilot to inform the evaluation and decisions on continuation and roll out.

28. The Chair advised Mr Allison that some comments had been made about General Authority cases at the recent Shadow Family Justice Board and said we would share these with him.

Action: Comments on General Authority to be shared with Mr Allison.

Private Law System

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

29. Mr Allison updated members that the Department continues to monitor uptake and operation of the section 28 waiver of financial eligibility limits for victims of domestic abuse to inform decisions of other evidence which might be used to demonstrate eligibility and identify potential opportunities to maximise usage.

The Department is considering the draft section 29 Report. The Report will be subject to Ministerial consideration before being laid before the Assembly.

The rules of court to enhance the availability of special measures to victims of abuse in family proceedings and ensure they can give their best evidence came into force in November. Work is ongoing to implement prohibition of cross-examination by perpetrators.

Mr Allison advised members that the department are trying different ways to educate and raise awareness regarding the waiver and special measures.

Family Resolution Hearings

30. Mrs McMurray advised members that a Family Resolution Hearing pilot was set up in September to run for one year. Resolution hearings have been 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

purpose is to achieve resolution of disputes in a timely fashion in a more informal setting where appropriate.

To date 4 cases have been identified and are currently listed for Resolution Hearing. These are being tracked and also compared to similar cases which started around the same time to monitor progress.

Mrs McMurray further advised that the LSA and Taxing Office were being consulted to aid tracking the cases.

31. The Chair noted that the Lady Chief Justice and Mr Justice McFarland were very keen to see progress in this area.

Delays in Children Order Cases/Performance Monitoring

Review of the Children's Order Advisory Committee (COAC) Best Practice Guidance

32. In Mrs McDaniel's absence members were referred to the summary provided stating that work to develop a draft business case to progress the Review is ongoing, with a delay to planned timescales due to other competing priorities. NICTS and DoH officials met on 20 December 2022 to discuss a draft and agreed some further work was required. This is being progressed. When completed, the business case will need to be considered in the context of significant budget constraints across all departments in 2023/24.

Sub-committee on Delay in Public Law Children Order Proceedings

Children's Court Guardian Agency Review pilot

33. Mrs McMurray updated members that the Children's Court Guardian Agency /HSC Delay Pilot working group have reported to the Sub-Committee that they have now collated a wealth of data for the collation of the final report. The working group will continue to track through to June 2023 with the final report being available by July 2023.

Criminal Investigations Working Group

34. Mrs McMurray updated members that the working group involving the PSNI and the legal profession have 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 prepared the following documents, which 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

Mrs McMurray further advised that views had been invited at the recent Shadow Family Justice Board meeting but members agreed it was too early to evaluate.

Litigants in Person (LIP)

LIP Reference Group

35. Mr Allison advised members that the Reference Group continues to focus on improving the experience of LiPs in family proceedings and contributing to modernisation and reform initiatives. He said interest and concern about the role of McKenzie Friends and consistency of approach in relation to them remains a matter of interest to LiP members. The Group hosted a webinar on developments on dealing with LiPs in England and Wales on 13 March. Members of the profession and the judiciary were in attendance.

The Department has agreed to continue to fund maintenance of the tools developed by Ulster University for LiPs involved in family proceedings.

Mr Allison further advised that 46 people connected to the webinar and good feedback was received. He advised that one word that came back was 'fear'. This was fear from LiP's going into 'the court arena' and the emotion of fear was very prevalent.

Establishment of a Regional Care and Justice Campus

36. In Mrs McDaniel's absence members were referred to the summary provided stating that following a Programme Review in late 2022, the Regional Care and Justice Campus Programme has refocused on two key priorities – prevention of admission (or readmission) to a secure facility, and harmonisation of standards and services across Lakewood Secure Care Centre and Woodlands Juvenile Justice Centre.

In terms of prevention, implementation of the Northern Ireland Framework for Integrated Therapeutic Care is continuing, with an initial focus on a small number of residential homes as well as the two regional secure facilities. In addition, the Campus Programme Team is currently considering how best to meet the needs of young people transitioning into, and out of, Lakewood or

Woodlands including, the on-site step down unit proposed in the original consultation.

In relation to the harmonisation workstream, the new 'Acorn' therapeutic service has started to operate across both sites, with recruitment into the service continuing. Work is ongoing in connection with primary health care to young people in both centres, with high level options developed. In terms of education and training, the statutory requirements to change the existing provision mean that this is likely to take a longer period of time to implement. The Department of Education is leading this work on behalf of the Programme. Preparatory work to support the future sharing of space and/or facilities has also commenced.

Inspire Pilot

37. Mrs McMurray updated members that Her Honour Judge Bagnall engaged with Inspire and a pilot programme aiming to provide advocacy services to family court users commenced within Laganside Courts on Tuesday 29 November 2022. Inspire works with people living with mental ill health, intellectual disability, autism and addictions. The service operates each Tuesday from 10am until 12.30pm within Laganside Courts.

The first evaluation of the pilot has been submitted to Her Honour Judge Bagnall and although the uptake from within the court setting was initially low, it has been noted that clients have self-referred or have been professionally referred which should increase numbers. Inspire have recently been linking in with contact centres and social services and the service has been well received by professionals in these settings so it is believed that more referrals will come in through this pathway going forward.

The next evaluation is due on 19 May 2023 with the 6 month review meeting scheduled for 31 May 2023.

Shadow Family Justice Key Priorities

38. Mrs McMurray updated member that a future priorities paper has been approved by the shadow Family Justice Board. It has been agreed that a Practice Direction on disclosure in family cases and scoping work on child abduction cases will be considered going forward in line with recommendations highlighted in the Gillen report. Draft papers will be prepared, and the group will be consulted before any potential changes take place.
39. The Chair agreed that an increase of Hague Convention cases were coming through the system.

40. Mrs Davis advised members that there are an increased number of different nationalities getting together and having families. With the different parenting techniques this has led to increased abduction levels.

Open Justice

41. Mrs McMurray advised members that the sFJB is maintaining a watching brief on the transparency Implementation Group in E&W and members have been kept up to date with developments. [Guidance](#) was issued by the President of the Family Division Sir Andrew McFarlane on 27 January 2023 which set out that three areas in England and Wales will road test what is known as the Reporting Pilot (“RP”). The areas have been carefully chosen to ensure a representative mix for sampling and evaluation, a mix of rural and urban communities. The areas that will take part in the RP are Cardiff, Leeds and Carlisle and the pilot will run from January 2023 – January 2024.

It is hoped that the pilot in E&W will help inform future proposals for Northern Ireland, in particular the current pilot allowing reporters and legal bloggers in three courts to attend and report on proceedings, subject to rules of anonymity, in cases otherwise conducted in private in the Family Courts. It is also important to note that, in NI, judgments of the High Court, which hears the most complex family cases, are often published. The judgments, while anonymised, to protect children in particular, contain details of the cases, legal argument considered and the reasons for any conclusions reached.

Cross Border Protocol for Judicial Protocol Regulating Direct Judicial Communications Between Scotland, England and Wales, and Northern Ireland in Children’s Cases

42. Mrs McMurray advised members that NI is now a member of the Cross Border Conference Group, the purpose of the Cross Border Conference is to promote better judicial co-operation between England and Wales, Scotland and Northern Ireland children’s cases. It is hoped that Northern Ireland will host the next meeting of the Cross Border Conference in 2024.

Northern Ireland has also adopted the Judicial Protocol for Children’s cases in Cross Border UK cases, the protocol will assist in creating a transparent process of judicial liaison which will be available to the parties in any proceedings. A draft was agreed between the four jurisdictions in 2022 and was published on 6 February 2023. The protocol is available on the Judiciary NI website.

Northern Ireland Section to existing Handbook

43. Mrs McMurray advised members that accompanying the Judicial Protocol is a handbook which was prepared by family law barristers and advocates and

summarises the respective law and practice in Scotland, in England and, where these differ, in Wales, and provides a central source of guidance. A working group has been set up to draft a section which will cover current NI law and it is envisaged that a further change would be required when The Children & Adoption Act comes into effect.

The working group aims to have a draft section prepared by the end of April 2023 and completed by September of this year. The working group will act as an editorial team in respect of the draft.

Review of undefended divorces being dealt with by Masters

44. A review of the change of undefended divorces being dealt with by Masters was carried out within 6 months of the change being initiated. As part of the review process feedback was sought from the Presiding Master, Master Kelly. Master Kelly very helpfully consulted with the Masters involved in hearing undefended divorces and provided a collective response. The following points are noted;

- consensus among the Masters is that their tier hearing undefended divorces is going well;
- both Counsel and solicitors have adapted well to the new arrangement;
- Masters have received very appreciative feedback from the legal profession regarding their levels of preparation and how they deal with the petitioners;
- Masters were also keen to acknowledge the contribution of the court clerks in facilitating the smooth transition and all agreed that the Matrimonial Team and the Matrimonial Court Clerk assistance is excellent. This positive message has been passed to staff;
- Masters noted that the feedback from NICTS staff has also been very positive;
- The Masters currently deal with an average of 24 divorces per week, with 8 divorces listed on a Monday, Wednesday and Friday;
- This initiative has resulted in cost efficiencies.

Feedback will now also be sought from the professions and all those who were initially consulted.

Next Meeting

45. It was agreed that the date of the next meeting would be confirmed to members and would take place after the next meeting of the Shadow Family Justice Board.