

## SHADOW FAMILY JUSTICE BOARD ADVISORY GROUP

**Minutes of the Second Meeting of the shadow Family Justice Board Advisory Group held at 4.00pm on 4 November 2019 in the Judges' Assembly Room, Royal Courts of Justice, Belfast.**

Attendees:

Peter Luney (Chair, NICTS)  
Ann Shaw (NSPCC)  
Jenni Boyce (NSPCC)  
Joan Davis (Family Mediation NI (FMNI))  
Dr John McCord (Ulster University)  
Eilis McDaniel (DoH)  
Karen Baines (DoJ)  
Kim Elliott (OLCJ)

Secretariat: Katharine McQuade (OLCJ)

1. The Chair welcomed everyone to the meeting and thanked the members for their attendance. It was noted that Jenni Boyce had taken over from Colin Reid as NSPCC representative and that Martin Quinn had been confirmed as the Health & Social Care Board (HSCB) representative.

### Apologies

2. Apologies were received from Martin Quinn (HSCB), Mairead McCafferty (NI Commissioner for Children & Young People (NICCY)), Stephen Martin (DoJ) and Mandy Kilpatrick (OLCJ).

### Minutes of the Meeting 27<sup>th</sup> February 2019

3. Ms Baines requested that paragraph 11 of the draft minutes be amended to read "*Fourteen families have participated in the programme and six children have remained in the care of their family*". It was agreed that the amendment should be made and the minutes should be published.

### Action Points

4. The Chair noted that no further updates were available regarding the Family Hearing Centres proposals and that the focus was currently upon Civil Hearing Centres. He also confirmed that minutes of the shadow Family Justice Board (sFJB) meetings were being routinely circulated to Advisory Group members.

## Open Justice

### *Media In Court Pilot*

5. Mrs Elliott updated members on the progress with the Media In Court Pilot. She confirmed that the consultation on proposals for the pilot scheme had closed on 23<sup>rd</sup> August and that it was not unexpected that a number of respondents had expressed concerns about the scheme, given the responses to the recommendations of the Family Justice Review. The sFJB sub-committee on Media Access to Family Courts met with several of the consultees on 25th July to discuss any concerns or queries they had regarding the consultation document before they formally submitted their responses. Some of the main issues raised included the risk of jigsaw identification of children, the naming of social workers in media reports, the robustness of the accreditation protocol and the need for further collaborative working with interested parties to develop the proposals. Mrs Elliott also explained that, following a recommendation received from the Information Commissioner's Office, the secretariat had completed a draft Data Protection Impact Assessment in respect of the proposals.
6. Mrs Elliott informed members that legal issues had been raised surrounding the use of the inherent jurisdiction of the High Court to facilitate the pilot scheme, which may require an amendment to the Court Rules. If it is confirmed that legislative change is required, the pilot cannot commence and the matter will be passed to the DoJ to progress. She said that all consultees would be updated once the position has been confirmed.

**Action: Secretariat to write to consultees to confirm the position regarding the Media In Court Pilot after the relevant legal advice has been received.**

## Problem-solving courts

### *Family Drug and Alcohol Court (FDAC)*

7. Ms Baines confirmed that fourteen families have participated in the programme, which closed to new entrants in November 2018, and that treatment plans have now concluded in ten cases. She confirmed that eight children from three families have remained in the care of their family as a result of the programme and that an evaluation is expected to be completed early in the new year.
8. The Chair noted that the Department has also been exploring problem-solving courts in the criminal sphere. The Substance Misuse Court (SMC) has entered its second phase with the first phase now subject to evaluation. The

Chair explained that anecdotally the SMC has been very well received. He also informed members that the Department was meeting with colleagues from DoH and Probation regarding a pilot scheme focused on the mental health of defendants in criminal proceedings.

### Single-tier

9. Ms Baines said that the DoJ is currently working to produce policy options for consultation.

### Voice of the child and vulnerable adults

#### *Signs of Safety (SoS)*

10. Ms McDaniel provided an update on the rollout of the SoS model. To date almost 1700 social workers have received training along with nearly 190 safeguarding partners. She advised that the training is expected to be concluded by March 2020 and that the focus will then be on embedding the work in all areas. Ms McDaniel said that surveys of both staff and parents who have experienced SoS have been conducted and the vast majority of parents responded positively to the framework. The survey results indicate that SoS gives parents a greater feeling of being understood by social workers and also helps them to feel supported and involved in the planning process.
11. Mrs Elliott reported that a presentation on the SoS practice model was delivered at the Family Justice training event on 21<sup>st</sup> March 2019 and that the Judicial Studies Board (JSB) has agreed that SoS should be included as a standing item for the JSB organising committee to consider when planning the judicial training schedule. She also advised that two judges had attended a SoS gathering on 2<sup>nd</sup> October which showcased the work, training and practice undertaken across the Trusts since the roll out of the SoS model had begun.
12. Mrs Shaw raised the issue of training for the legal professions on child protection issues. She explained that at the Advisory Group's previous meeting it was suggested that the professions would be reluctant to introduce mandatory training. The Chair advised that accreditation presented an issue for the professions as it could preclude practitioners from undertaking certain types of work, but that the sFJB was working with the professions to encourage voluntary accreditation. The Chair informed members that the Bar's Advocacy Training Board has established a working group to implement specialist training and written guidance for working with children and vulnerable adults, and that it has also planned a series of lectures on the

subject during the autumn. A Children Order Panel Day on 30<sup>th</sup> May 2019 was also devoted to dealing with vulnerable witnesses. The Chair also reported that the sFJB Chair has suggested that it would be beneficial if advocates were brought back to the basics of advocacy and has asked the Bar and Law Society to consider adapting The Advocate's Gateway Toolkit on 'Vulnerable Witnesses and Parties in the Family Courts for Northern Ireland'.

#### *Registered Intermediaries (RI)*

13. Ms Baines confirmed that the DoJ has been providing RIs in civil and family proceedings on a case by case basis subject to a judicial direction as to necessity. She explained that evidence gathered from such cases will be used to inform future policy decisions.

#### *Litigants In Person (LIP) Reference Group workshop*

14. The Chair said that the LIP Reference Group is organising a workshop on working with distressed litigants in person as part of a wider two day visit by the Access to Justice Foundation in February and there may be some read-across from this event. The workshop is led by Professor Rob Poole of Bangor University's Centre for Mental Health and Society and Professor Catherine Robinson from Personal Social Services Research Unit. The workshop is aimed at the legal profession, judiciary, legal advisers and other court staff. The issues covered include de-escalation, debriefing and supervision, suicide ideation, psychosis, coping strategies and boundaries. It uses case-studies and the workshop is interactive.
15. Dr McCord informed members that the Nuffield Foundation research has entered its second phase and that the research objective is to create a legal participation checklist that might be developed for use by court actors to identify participative gaps in court processes. The research will also convene a Working Group, with mentoring support from the British Columbia Family Justice Innovation Lab, to develop support materials for family law LIP employing user focused design principles. Mrs Elliott confirmed that the Chair of the shadow Civil Justice Council (sCJC), Mr Justice McAlinden, had agreed to act as Chair of the Research Advisory Group. She noted that LIP was a priority area for the sCJC but suggested that as this research has a focus on litigants in the family arena it might be beneficial to update both the sFJB and its Advisory Group on progress.

#### *Extension of NSPCC Young Witness Service (YWS)*

16. Ms Boyce advised that discussions had taken place between DoJ and NSPCC and that the Department had decided that a pilot to support child witnesses in the family courts should not be introduced at this stage. The Department is happy to revisit the issue in the future should an appetite emerge.

#### Divorce Proceedings

17. The Chair explained that as part of its Transformation programme NICTS has identified three pilot projects to test concepts and develop a range of new integrated on-line services. While 'Online Application for Divorce' was one of the pilots originally under consideration NICTS has instead selected to progress the 'Non-Contentious Probate End to End Solution'. The probate pilot will potentially inform the possibility of divorce online in the future. The Chair advised that although the business area in this instance is small it could be used to test a number of concepts which could be scaled upwards e.g. online case initiation, digitised service and uploading of digital evidence. It is anticipated that the probate pilot will be developed by the beginning of next year.

#### Resolutions outside court

18. Ms Baines reported that the DoJ has had discussions with representatives of the Foyle Contact Centre regarding the delivery of a pilot programme of information sessions for separating parents. The DoJ has also commissioned an animation to raise awareness of other options for resolving disputes and it is intended to launch this in January 2020 along with other supports e.g. a parenting plan which has been developed from an existing document in Scotland. Ms Baines confirmed that the animation will be shown to stakeholders prior to the launch. Mrs Elliott suggested that the Advisory Group members could also be invited to preview the animation.
19. Ms Davis pointed out that FMNI already have a co-parenting plan at their disposal and DoJ could have used this existing resource instead of drawing upon a Scottish equivalent. She explained FMNI had a long-standing working relationship with DoH on these particular issues and was disappointed that this had not been communicated between the government departments, and underlined the lack of awareness of NI based expertise and resources available in the voluntary sector. She explained that FMNI was established in 2000 and has been under contract with HSCB for ten years to provide child-centred mediation between separating parents. She described the complexities of, and barriers to, mediation and advised that the work, which is not suitable

for all couples, is future focused, aiming to empower two people to move forward as separated parents and draft their own co-parenting plan.

20. Ms Davis advised that, while the greater percentage of FMNI's clients were self-referred for pre-court intervention services funded by HSCB, they also provided court referred mediation. They had noted that the number of court referrals to FMNI was now particularly low (in the past court referrals accounted for 17-18% of FMNI's work), and were concerned that perhaps referrals were routinely being made to legal mediator services, and if so, then the public was not being presented with a choice. She stressed that the services on offer are very different and that a level playing field is required to ensure that the public are aware of all the options available. She said that there was also a need to educate the wider public about mediation, rather than just separating parents, and that the Public Health Agency has a role in prompting discussions about what occurs when parents separate. She felt there was a general lack of awareness regarding the skills and expertise available in the voluntary sector. Ms McDaniel acknowledged the relationship and suggested that she liaise with Ms Davis to discuss future collaborative working.

**Actions: Ms Baines to include Advisory Group members in the stakeholder animation preview; Ms Davis to share FMNI co-parenting plan with DOJ; Ms McDaniel and Ms Davis to meet to discuss future collaboration between DoH and FMNI.**

#### Public Law Proceedings

21. The Chair informed members that at the sFJB meeting held on 23<sup>rd</sup> January 2019 NIGALA tabled a reworked guidance document on the instruction of experts in Public Law Proceedings. The Chair noted that the group, consisting of the LSA, the Bar, Judge Kinney and NIGALA, are due to meet on 6<sup>th</sup> November, and an update would be provided at the next meeting.
22. The Chair said that DoJ is developing a pilot approach in family proceedings to determine how experts might be appointed more quickly. It is anticipated that the pilot will launch in January 2020. The Chair asked for members' views on how the services of experts could be engaged more successfully. Dr McCord advised that appointing and instructing experts is frequently challenging due to the lack of an appropriate repository that can be used to identify experts.

#### Delays in Children Order Cases/Performance Monitoring

23. The Chair explained that the Lord Chief Justice has requested that the sFJB investigate the delay in Children Order public law proceedings, which show an average increase of 10 weeks across all court tiers during the period 2016 - 2018. The sFJB has established a working group to examine the issue and that any input from the Advisory Group would be welcomed. Ms McDaniel suggested that any improvements witnessed during the Care Proceedings Pilot have been lost as the focus which the pilot placed on delay was not sustained after its conclusion. Ms McDaniel said that there had been a general consensus during the pilot that 35 weeks should be achievable and in most pilot cases this target had been met. She also advised that review meetings had been one of the most successful aspects of the pilot.

#### Cross-examination of victims of Domestic Abuse

24. Ms Baines informed members that the DoJ consultation on 'Protecting victims of domestic abuse from being cross-examined by perpetrators in family court proceedings' closed on 11<sup>th</sup> October 2019 and that responses to the consultation were generally favourable. She said that the Department has been working to have relevant provisions included in the Home Office Domestic Abuse Bill, however the Bill will not be progressed by Parliament before it is dissolved for the Election. Mrs Elliott explained that the Family Justice Review contained a recommendation that the E&W Practice Direction 12J be implemented as a stand-alone Practice Direction in NI and that the sFJB agreed to consider the need for a PD12J equivalent once the DoJ policy position has been determined.

#### Key Priority Areas

- 26 The Chair reflected on the progress made in the six priority areas since the sFJB was established almost two years ago. He invited members to consider what further areas should be prioritised by the sFJB during the coming year in recognition that there were no Ministers or legislation, and to forward suggestions to the secretariat.

**Action: Members to consider which new areas should be prioritised and submit suggestions in advance of the next sFJB meeting (to be received no later than end December 2019).**

#### Any Other Business

27. Ms Davis referred to paragraph 22 of the minutes of the sixth sFJB meeting on 12<sup>th</sup> June 2019. She queried the reference to raising awareness of legal services which provide mediation services and wondered why no reference had been

made to services provided by third sector organisations. Mrs Elliott said that the Master had highlighted the lack of visibility of mediation services on the Bar's website and the difficulties this presented for making appropriate referrals, and explained that the discussion had centred upon mediation in respect of Financial Dispute Resolution issues, rather than parenting issues. She assured FMNI that the intention was to ensure that all mediation services were accessible, and not to promote one source of mediation over another.

28. Dr McCord reported that the British Columbia Family Innovation Lab had created a new 'Youth Voices Initiative' to support the well-being of youth whose families have experienced separation and divorce. He said that the initiative is using a human-centred design approach putting families and children at the centre. Ms Baines agreed to forward details of the Youth Voices Initiative website to the secretariat for circulation to members.

**Action: Ms Baines to forward details of Youth Voices Initiative website to secretariat for circulation to members.**

#### Next Meeting

29. The Chair advised that the next meeting would take place following the next sFJB meeting (currently scheduled in February 2020) and that members would be informed of the date in due course.