

FAMILY JUSTICE BOARD MEETING MINUTES

15 JANUARY 2019 14:30-16:00, PALACE OF WESTMINSTER

ATTENDEES

Chairs

Lucy Frazer QC MP, Minister for Courts and Justice, Ministry of Justice (MoJ)

Nadhim Zahawi MP, Minister for Children and Families, Department for Education (DfE)

Members

Andrew Christie, Chair of Adoption and Safeguarding Leadership Board

Anthony Douglas, Chief Executive, Cafcass

Helen Watson, Association of Directors of Children's Services (ADCS)

Isabelle Trowler, Chief Social Worker for Children and Families, DfE (represented initially by her Head of Office)

Julia Gault, Deputy Director Family Policy, Department for Work and Pensions

Katy Willison, Director of Children's Social Care, Practice and Workforce, DfE

Kevin Sadler, Deputy Chief Executive, HM Courts and Tribunals Service, and Chair of the Performance Improvement Sub-Group

Nicola Hewer, Director Family and Criminal Justice Policy, MoJ

Nigel Brown, Chief Executive, Cafcass Cymru

Albert Heaney, Director, Social Services, Welsh Government

Yvette Stanley, National Director, Social Care, Ofsted

Observer

Rt Hon Sir Andrew McFarlane, President of the Family Division of the High Court

Apologies

Jake Morgan – Association of Directors of Social Services Cymru

Item 1 – Introduction, and minutes from last meeting

1. Lucy Frazer opened the meeting, noting that discussion would focus on the proposals from joint MoJ-DfE work on volume and variation in the family justice system.
2. The minutes from the last FJB in September were approved without amendment.

Item 2 – Actions from last meeting

1. The Head of Office for the Chief Social Worker noted that the Family Justice Young People's Board's (FJYPB's) *'Top tips for parents who are separated'*, which was presented at the previous meeting, had now been disseminated through the social worker network and through the social care newsletter.
2. A joint FJB narrative produced by Cafcass and Ofsted was discussed. The narrative emphasised that the family justice system continued to operate regardless of the use of the word 'crisis'. It acknowledged that the use of the term served a useful function when originally used, but that it was important to start discussions on a new narrative for the system. The narrative therefore attempted to describe the system with accuracy, pride and a determination to improve where necessary. The narrative was designed to complement the proposals emerging from the joint MoJ-DfE work.
3. During discussion, members noted that it was important to consider that practitioners on the ground might be more likely to continue to perceive a 'crisis', but agreed that overall the narrative provided a balanced view.

Item 3 – Updates from sub-groups

Family Justice Young People's Board (FJYPB)

5. FJYPB representatives provided an update on their plans for their annual 'Voice of the Child' conference in July and set out their priorities for 2019/20. This included FJYPB's work on the HMCTS Children and Young People working group, and their work with Cafcass Cymru, including a joint work plan. This work plan involved FJYPB takeover days, delivering training to businesses, attending Welsh family justice days, sitting on recruitment panels in England and Wales, and attending Cafcass England board meetings. They were continuing to build a strong relationship with DfE and had met with Nadhim Zahawi regarding their work plan and ongoing involvement with DfE's policy development. Nadhim Zahawi agreed to distribute their FJYPB top tips poster to schools.
6. Lucy Frazer thanked FJYPB for their presentation and requested that any suggestions should be sent to the FJYPB secretariat.

Family Justice Council (FJC)

7. The secretary to the FJC set out the group's role as an interdisciplinary body focused on identifying best practice and, where appropriate, issuing practical guidance to practitioners, before summarising the work that the group was undertaking. The FJC currently had working groups considering the following four areas:
 - (i) Covert recording in public/private law;

- (ii) Special Guardianship Orders, focusing on the quality and timing of assessment guidance;
 - (iii) Pre-proceedings in public law;
 - (iv) Medical mediation cases.
8. The FJC had contributed to the LASPO post-implementation review and had a conference scheduled for 12 March, the theme for which is: *“After 30 years of the Children Act 1989, has the threshold for intervention changed?”*
 9. The secretary to the FJC requested agreement to share the proposals from joint MoJ-DfE work with the FJC once approved, to which members agreed.

Performance Improvement Sub-Group (PISG)

10. The Chair of the Performance and Improvement Sub Group (PISG) provided an update on system performance. The position was similar to that reported in September, but with public law showing a 0.1-week improvement in timeliness and a limited increase in the backlog of this quarter. The private law position showed a continued quarterly increase in receipts of 1.9%, compared to flat levels in public law. The Chair stated that HMCTS were still looking to increase judicial and administrative resource, but were keen to avoid increasing court capacity beyond what other agencies were able to match, and were monitoring any increases in adjournments to that end.
11. The Chair also noted that although PISG was recommending that key performance measures for the family justice system remain the same for 2019-20, PISG would be conducting an annual ‘deep dive’ into performance and outcomes in conjunction with analysts.
12. Concern was raised about the decline in adoption and permanency orders. Members considered that changes in the cohort of children in the system were making adoption less likely. Lucy Frazer agreed that there should be further discussion at a future meeting on the use of permanency orders and the profile of children coming into the system.
13. Members also noted the continuing rise in private law case volumes and the fact that such cases posed serious challenges with increasing average case durations. The board agreed to focus on the rise in private law cases at the next meeting in May, and to consider ways to divert private cases from court more effectively.

Item 4 – Proposals from joint MoJ-DfE work on volumes and variation in the family justice system

14. Since March 2018, MoJ and DfE had jointly been working to gather evidence on the reasons for, and develop proposals to address the impact of, the rising levels of volume in the family justice system, and local variability in decision making.
15. The findings of the joint MoJ-DfE work were introduced. At the last meeting in September, phase 1 of this work had been completed and FJB had agreed the priorities for phase 2. This phase involved reviewing existing evidence and guidance, collecting new national data, and carrying out fieldwork interviews with 48 social workers from across 12 local authorities and 11 family judges in England as well and social workers and family judges in Wales. MoJ and DfE officials noted the work’s purpose of producing short to medium-term proposals to sit alongside longer-term existing work in this area.

16. There were eight proposals arising from this work, with substantial evidence underpinning them. The proposals were grouped under three headings:
- (i) Preparation of cases and diversion from Court where appropriate;
 - (ii) Better use of the family network and alternatives to court;
 - (iii) Promoting consistent and appropriate decisions in court.
17. Officials noted that the proposals required collaboration across the sector as they concerned behaviour and culture change in the system more broadly, rather than being able to be delivered by government alone.
18. The implementation of the proposals was discussed and the board's agreement was sought to develop the proposals into a detailed work programme, encompassing action by both government and the sector, which could then be monitored and updated at each FJB meeting.
19. Commenting on proposals, members were supportive, with discussions and observations including:
- The question of prioritisation, as some of the proposals would have immediate impact, while others were currently less developed. For example, clarification on the use of section 20 of the Children Act 1989 on temporary care could have immediate impact, whereas the development of peer review mechanisms for social workers to share good practice was at an earlier stage.
 - It was noted that the Public Law Working Group was already looking at a number of issues in this space which would be an important component of the work programme.
 - Agreement that some form of peer review mechanism for practitioners to discuss cases could be impactful and was worth pursuing, even if it constituted new territory.
 - The similarity of themes between public and private law, with a suggestion that private law be integrated into the work programme. It was also agreed that questions of consistency should focus on all practitioners, not just the Judiciary.
 - The importance of making collaborative progress through partnership between the family judiciary and the social work profession.
 - The importance of quality social work practice as the cornerstone of pre-proceedings, and the importance of ensuring consistency in the proportions of different orders between each court.
 - In response to a question about the possibility of identifying good practice, it was noted that the primary fieldwork involved taking social workers through hypothetical cases, which had revealed evidence of variation in practice and thresholds.
 - The point was made that thresholds had shifted over the past 20 years, and the need for a professional conversation about this shift was emphasised.
 - It was argued that changing approaches to section 20 would involve a major cultural shift. The question was raised about whether the Children's Improvement Board could be involved, and it was also noted that Ofsted had evidence of where elements of the system

were working well, with different intervention. Similarly, it was suggested that drawing on evidence of good practice in particular areas of social work practice, rather than relying entirely on LA-level Ofsted ratings, would be beneficial.

20. The discussion involved a strong sense of support from across the board and agreed that policy officials would draw up the proposals into a draft work programme for consideration at the next meeting in May.
21. The President of the Family Division emphasised the importance of the national FJB conference in March, and how important it would be to distil findings into clear messaging, and to learn from practitioners.

Item 5 – Future role of FJB

22. MoJ officials presented developments of the proposals, previously introduced at the September FJB meeting, to engage and oversee the work of LFJBs. In light of the proposals from the joint MoJ-DfE work, the goal is to build understanding of ways that LFJBs can help with their implementation as local delivery would be central to the achievement of behaviour change.
23. In terms of the role of the LFJB sponsors, the board considered a set of questions for sponsors to raise with their boards to consistently report back to the next Board. These were policy-focused so as to avoid duplicating existing performance reporting, and would be updated quarterly with FJB input. Ideally sponsors should attend LFJB meetings in person up to twice a year, but these questions would allow for further engagement with local boards and their chairs and for the creation of a coherent national picture of the issues they cover. The board was also made aware of two sponsors' events, scheduled in February, which would discuss the role of the sponsor and provide further guidance on the role of sponsors at the national conference.
24. Following members' comments, it was agreed that a proposed question about problem-solving courts should be expanded to cover the local adoption of wider problem-solving approaches in the care system such as Pause.
25. A draft agenda for the FJB national conference was then discussed by the board. The conference was designed to be an opportunity to communicate the findings of the MoJ-DfE work and develop them into a work programme through interactive sessions focused on each of three overarching proposals. It was also an opportunity for LFJBs to network and share practice.
26. It was agreed that FJYPB would also present at the conference.

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27. Details of the Reducing Parental Conflict challenge fund were introduced by DWP officials, and members were asked for their assistance in promoting the fund, which would be open for bids between 21 January and 15 February. The fund made £2.7m available across two strands to help learn more about what worked in addressing parental conflict, as well as testing methods of digital engagement with disadvantaged families to reduce parental conflict. Lucy Frazer praised this work as an example of cross-government working to help to resolve complex issues in the system.
28. The next meeting was planned for May.

