

FJB Newsletter

Special Edition, February 2019 – Tackling rising volumes and variation in the family justice system

Following the Family Justice Board meeting of 15 January, this newsletter is to update you on the decision of the Board to create a work programme setting out key actions to address rising volumes and variation in the family justice system.

For several years the system has been dealing with the impact of rising volumes, as well as variation between different areas. Ministers and the Board recognise the pressure that this places on the system as well as the impact this has on children and families. Everyone is very grateful for the hard work and dedication shown by practitioners across the country.

The Ministry of Justice (MoJ) and Department for Education (DfE) have been working with local practitioners in selected Local Family Justice Board (LFJB) areas to help understand the reasons behind the rising volume and local variation in public family law. The evidence we have gathered has helped us to develop proposals for how the system as a whole can make a positive difference in the short to medium term.

We hope that many of you will be able to attend the **Family Justice Board national conference on 5 March**. This is a key early opportunity to work together across the sector to discuss how we turn these proposals into reality, developing and prioritising them in ways that suit local circumstances.



Rt Hon Sir Andrew McFarlane

President of the Family Division of the High Court

“The work done initially by the Family Rights Group and now by the joint MoJ/DfE team provides a sound understanding of what may be done to improve the Family Justice system’s ability to deal more efficiently with the significant rise in case numbers. The FJB National Conference is a key opportunity to consider what can be done in each local area.”

The challenges we face

The number of children involved in new care applications rose by 23% in 2014-16 and, although now more stable, reached nearly 35,500 in 2017. The number of outstanding cases is also growing and timeliness has begun to decline, putting at risk the improvements made since the Family Justice Review in 2011.

Whilst we would expect some variation at a local level to take account of local contexts, our work has found considerable variation across the country in areas with similar demographics or local need which is why we want to encourage greater consistency in decision-making.



Isabelle Trowler

Chief Social Worker for Children and Families

“It is not often there is such a strong consensus that something should be done, and can be done, about the number of families subject to public care proceedings. I look forward, very much, to working with colleagues across the Family Justice landscape, to ensure we do what's right for every single child and their family”

What we have done

We held roundtable discussions with practitioners from six Local Family Justice Board (LFJB) areas to identify common issues and narrow the focus of work. From these discussions, we identified four public law issues to consider in more detail:

- The use of pre-proceedings;
- Care at home and supervision orders;
- The Public Law Outline (PLO); and
- Effective practice and interventions.

We then interviewed 48 social workers from across 12 local authorities and 11 family judges from the original six LFJBs in England about these issues. We also spoke with social workers and judges in an LFJB in Wales.

In addition, we analysed national and local data and guidance, and we considered the findings from academic research, the sector-led 'Care Crisis Review' and the Chief Social Worker's 'Care Proceedings in England: The Case for Clear Blue Water'.

In the course of considering this work, we recognised that although we need to develop a response to the rising volumes in the system, we must not disrupt or delay those cases that absolutely should go to court due to the high level of risk to the child. In addition, in improving consistency across the system, we need to be careful not to weaken local accountability.



Anthony Douglas CBE
Chief Executive of Cafcass

“We owe it to individual children and their families to review and improve on a continuous basis all aspects of how we work together. We have an ethical as well as a legal duty to make sure that our practice and our decisions are the best possible for individual children, when the consequences are so profound.”

What we found

Like previous studies in this area, we found that there is not one single cause or solution to these complex issues. Instead, we found that local authority and judicial responses to local circumstances drove much of the variation across local areas. We concluded that what was needed to address these issues was a work programme that aimed to bring consistency in decision-making practice throughout the system, rather than wholesale structural or systemic change.

The headline findings from our research are:

- **Pre-proceedings:** The use of pre-proceedings to divert appropriate cases from court is variable, as is the timing, engagement and assessment of parents and extended family networks. This is driven by variation in social work practice and skills, local authority approaches to managing risk, resources and service availability, and local demographics.
- **Supervision and care at home orders:** There are significant differences in attitudes and practice on the appropriate use of these orders, by local authorities and judges. This is driven by similar factors as variations in pre-proceedings practice (see above), as well as judicial assessment of thresholds and the care plan.
- **Public Law Outline (PLO):** use of the PLO 26-week extension is variable. The timetable may be leading to less confident decision-making, reflected in the use of attached supervision orders and care at home orders, with the potential risk of returns to court.
- **Effective services and interventions:** The importance of early engagement and support for families was emphasised. Strengths-based social work practice can also facilitate better relationships with families and support from wider networks, thereby avoiding the need for court.

Where is change needed

From these findings we have identified three main areas where we want to influence behaviour change in the system:

- Better preparation of cases before court and diverting cases from court where appropriate
- Making better use of wider family networks and appropriate alternatives to court
- Promoting consistent and appropriate decisions in court.

Where you come in

The FJB cannot make these changes to the system without your help. Indeed, we need the whole system to work together to address these issues. On a national level, we are developing a work programme, to set out in detail what specific actions need to be taken, and what work is going on across the system, to implement these changes. The FJB will oversee the work programme and rely on people in all parts of the system, from government to local level, to deliver and implement it.

In summary, at a **local level**, we would like to see:

- Local authorities making better and earlier use of the extended family network
- More consistent use of robust, quality parenting and kinship assessments and threshold evidence in pre-court planning
- Peer review mechanisms at a local level, to help with consistency in decision-making on when going to court is necessary

At a **national level**, we would like to work with you to:

- Re-emphasise and promote the role of pre-proceedings as an opportunity to avoid cases going to court
- Increase the provision and signposting of earlier independent advocacy and better information for parents
- Clarify policy and guidance on the appropriate use of Section 20 (voluntary care) and Section 76 in Welsh legislation, as an appropriate alternative to care proceedings when in the interests of the child
- Ensure the appropriate and consistent use of supervision orders and care orders at home
- Clarify the use of flexibility within the Public Law Outline to ensure the 26-week timeframe is not a barrier to achieving good outcomes for children

We would welcome your views at the FJB conference on 5 March on how we can deliver these actions which we will then feed into the developing work programme.

We have a unique opportunity to bring about change in the system. There is a broad consensus across the sector on what we need to do and that the above ideas are heading in the right direction.

Next steps

The proposals agreed by the Family Justice Board provide clear direction for a programme of work to deliver change. Please join us in this national conversation about how we can deliver change in the system and ensure the best decisions and outcomes for children and their families. The Conference on 5 March will provide an initial opportunity for you, via your LFJB representatives, to feed in your views on the above findings and ideas.

We are keen to hear your thoughts on how these resonate with your experiences locally and the part you can play in putting these proposals into action. Real and sustained improvement requires the whole system coming together and we will be reaching out for volunteers to support implementation of the work programme after the national conference.

The Family Justice Board

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