



CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE
Paper for the Board Meeting on 19 February 2016

CHIEF EXECUTIVE'S REPORT

Resources

1. We submitted our funding requirement from April 2016 until March 2020 into the Ministry of Justice (MOJ) on 11 January. This spreadsheet return was circulated to Board members at the time. Since then, numerous discussions and meetings with MOJ have taken place. Further challenge sessions at Business Group level within MOJ have been held – we are in the Law and Access To Justice (A2J) Business Group. No new enquiries of ourselves have emerged and no specific areas have been flagged for review, which has not been the case with some other ALB's. However, we – and all other ALB's - are in the middle of completing a further return at a very significant level of detail about future plans and proposed headcount by 2020. This needs to be back with MOJ by 2 March. It is hard to complete these meaningfully without knowing the detailed strategic direction for the family justice system and without knowing our precise role or roles in that.
2. The time-scale for decision making is that MOJ and ALB budgets for 2016/17 may not now be decided until sometime during March at the earliest. This is because the sum total of returns across MOJ exceeds the available budget by a large margin. Budgets for the remaining 3 years of the Spending Review period will be subject to further work with a view to settling them sometime during the summer of 2016 but in the same way the timescale has slipped for 2016/17, the same may well happen for the subsequent SR Years.
3. This late notification has made it hard to plan for 2016/17, though we have taken all the steps we need to manage our resources within the £114.1 million safe minimum budget which underpinned our return. An example is our implementation of the current business support restructure. So if our budget is set at this safe minimum level, no additional action will need to be taken, apart from that we have in hand.
4. The next Board update meeting has been set for 18 March. At present, there is no indication a longer emergency Board meeting will be needed but the situation remains uncertain and fluid for the reasons given.
5. Whilst a £114.1million budget is a safe minimum budget, it will unquestionably be a significant stretch. We have to absorb £1.5 million of higher employer National Insurance Contributions and £3.5 million of additional demand pressures, with projections of public and private law demand increases continuing to be at around 10%, on top of very high increases this year. There is a clear limit to what we can

absorb without changes to our remit, which are unlikely before 2017/18 at the earliest (see the reform parameters below). We will also have other costs to bear going forward which need to be factored into budget setting and calculations. For instance, the new apprenticeship levy will cost us an estimated £385,000 starting in 2017/18, as we will be taxed on 0.5% of our total payroll costs in any given year. We have one apprentice and would need to employ 41 apprentices to meet the public sector threshold for non-payment of the levy, which given the nature of what we do, is an impossible threshold to meet.

6. Our KPI's in 2016/17 will probably remain the same as they have been this year, but work is underway to refine these into a set of indicators which will also capture the impact of our work on children and families. Two examples of this are a measure of the impact of any delay in our work on the child in an individual case and medium term outcomes (12-18 months on) of our work in private law cases on children and families, which we have made a start with – and which was reported at the last Quality Committee. Potential future KPI's are to be discussed further at the next joint meeting of the Performance and Quality Committee, probably in May 2016.

Reform

7. The full range of policy options discussed with the Board at previous meetings remain on the table, but none have as yet been finalised and signed off by Ministers. In the last few months, the budget-setting process for 2016/17 has been pre-occupying and this has made signing off policy options that much harder to achieve, as each option needs to be accurately costed and judged affordable. As budgets for the remainder of the Spending Review are not being finalised for a few months yet, it is likely the future policy framework for public and private law will also not be finalised until the summer at the earliest. Whatever that final framework becomes, it is bound to be radical, given the scale of the financial and service challenges that have to be met.
8. New ideas are also being floated by the various key individuals and groups tasked with thinking about the next stage of family justice reform. These ideas include whether or not to have a review of the next stage of family justice reform, including evaluations of options such as varying the tandem model to include a more differentiated approach to determining the resources a specific case warrants. A review of the care system is also being discussed, as the system as a whole has not been reviewed for several decades, whilst the child protection system has been repeatedly reviewed e.g., the Laming review and the Munro review. A paradigm shift from a legal to a social model is also under discussion, which could involve a reduction in the level of representation, more devolved powers to legal advisors and judges asking most questions of witnesses – which to a large extent is happening already. All of the options under consideration will form the subject of a Board discussion on the Spending Review as it affects Cafcass towards the end of today's Board agenda.
9. The only reform directly affecting Cafcass that appears certain to go ahead is the focus on developing an out of court private law service capable of deterring or

diverting up to 50% of applicants away from a court process by 2020. The scale of such a reform is massive, as the underlying number of court applications has been in and around 40,000 for over a decade, so to reduce the underlying number to 20,000 a year or thereabouts will involve a major culture change. We continue to be closely involved in how this could be made to work, for example in our various pre-court and pre-FHDRA dispute resolution pilots around the country, the results of which justify cautious optimism. Our role in a re-configured private law system is also being discussed, in relation to our roles both as commissioners and providers.

10. HMCTS reform continues and the Government's response to the recent consultation on potential court closures is attached (Appendix 1), along with a covering letter from HMCTS (Appendix 2). We continue to liaise closely with them over the impact of court closures which has so far been low impact for us.
11. We continue to pursue the reform ideas and initiatives we think are important to our own future development and to system-wide development. These include discussions about how programmes like Pause can be extended to new areas, and the development of a model of collaborative justice in one county containing three local authorities. This model uses settlement conferences and family meetings, with an emphasis on innovative pre-proceedings practice. A London Borough has recently received £3 million of innovation funding to develop its pre-proceedings practice and this is the sort of development we need to be closely involved with going forward.
12. [This item is exempt from disclosure under section 36 of the Freedom of Information Act 2000 as it was intended to stimulate the free and frank exchange of views on confidential issues for the purposes of internal deliberation. This exemption is set out below.*]

Practice

13. Ofsted are proposing to include Cafcass in a mini-thematic inspection of local authorities over the next few weeks or months, to compare and contrast our model of practice leadership with the models in four local authorities who they have judged to be good with outstanding features under the current Single Inspection Framework (SIF). This is a positive development as we have wanted to be recognised in the same group as high performing local authority children's services departments.
14. The next full inspection of Cafcass will take place during 2017/18, not 2016/17, with a reduced number of inspector days, and placing more reliance on the quality assurance of our own audits about our level of practice.
15. As the Board have been advised previously, we have been heavily involved in the development of new Regulations for Special Guardianship assessments and court orders and these are being launched on 29 February (see Appendices 4 – 6).
16. I am working with ADCS on national guidance for the use of s20 care. This has become a major national issue with recent case law in the Appeal Court, a direct result of which is more s31 applications being made in cases which were previously

subject to s20 (voluntary care). This follows criticism of local authorities for letting voluntary care arrangements drift far too much.

17. Finally in this section, the Home Office is consulting on a new statutory definition of Child Sexual Exploitation which reflects the learning from recent cases and developments. We intend to send a short response in support. The proposed new definition is below:

'Child sexual exploitation is a form of child abuse. It occurs where anyone under the age of 18 is persuaded, coerced or forced into sexual activity in exchange for, amongst other things, money, drugs/alcohol, gifts, affection or status. Consent is irrelevant, even where a child may believe they are voluntarily engaging in sexual activity with the person who is exploiting them. Child sexual exploitation does not always involve physical contact and may occur online.'

Remaining specific issues of note

18. Our 9 month audit of accounts by the National Audit Office (NAO) has been clean and positive with no significant issues raised.

Anthony Douglas CBE, Chief Executive

15 February 2016

Appendices

Appendix 1: Government's response to the recent consultation on potential court closures

Appendix 2: Covering letter from HMCTS

Appendix 3: [Item is exempt from disclosure under section 36 of the Freedom of Information Act 2000]

Appendix 4: Special Guardianship (Amendment) Regulations 2016

Appendix 5: Explanatory memorandum to the Special Guardianship (Amendment) Regulations

Appendix 6: Special Guardianship Assessment Amendments

* [Section 36 of the Freedom of Information Act](#) relates to the prejudice to effective conduct of public affairs:

Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—

(b) would, or would be likely to, inhibit—

(i) the free and frank provision of advice, or

(ii) the free and frank exchange of views for the purposes of deliberation, or

(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

Some sections of the Chief Executive's report are intended to stimulate free discussion at the Board meeting about current issues within the organisation. These relate to confidential or live issues which are not yet public or finalised. In these cases it has been decided that the public interest in maintaining this exemption outweighs the public interest in disclosing the information. Compromising the safe space for developing ideas and debating issues would damage the effective working of Cafcass which is a public body necessary to the effective working of the family justice system. This outweighs the public interest in transparency and accountability of the activities and topics discussed, which are disclosed where possible.