

Cafcass – A vision for the family justice system

Context

1. Cafcass was established in 2001 to represent children in family court cases. We make sure that children's voices are heard and decisions are taken in their best interests. We are independent of parents, the court, and local authorities.
2. The last decade has seen a relentless increase in demand for family court services, leading to a widely accepted view that the current system is unsustainable. The Family Justice Review, published in November 2011, found that "family justice does not operate as a coherent, managed system...in many ways, it is not a system at all". The review made 134 recommendations to government for how the system should be reformed and a "family justice service" established. The government accepted and committed to action on the vast majority. On some we've seen great progress – most care cases are concluding within 26 weeks and court processes are modernising – but we are still without a joined-up and efficient "service". We think the absence of such a service means that actions to manage demand pressures cannot be co-ordinated effectively.
3. Last year we worked with 116,000 vulnerable children and young people and expect this number to rise to 130,000 by April 2018. Whilst it is unarguable that the majority of children are desperately in need of help, there are insufficient numbers of social workers, foster carers, adopters, specialist professionals such as paediatric radiologists and specialist placements, especially specialist therapeutic placements, to cope with demand and need – an 'insufficiency crisis'.
4. Local authority children's services cannot be cross-subsidised by local councils for much longer and the public has less appetite for a council tax precept for children's social care than it has for the current precept for adult social care. There are similar demand pressures in private law, raising the question of whether different levels of support should be available determined by the complexity of the family's need. We think that a managed service could develop a commissioned service mix based on tiered support.
5. Because of these factors, the need for reform is urgent and compelling. The children in question cannot and should not continue to be at risk from such delay and uncertainty. Efficiency savings can play a part in managing resources more effectively but the scale of the problem requires comprehensive reforms so as to make the system sustainable over the next 10-15 years.
6. Our aim is to set out a clear vision for a more efficient, effective and child-centred family justice system. Our vision is ambitious and will require legislative change as we consider what might be possible in the period up to 2025 and beyond.

Principles

7. We propose a family justice system that is built on a set of principles that value and reflect the diverse needs of modern families. We need a family justice system that:
 - Ensures the voices of children and young people are heard and acted upon
 - is agile, flexible and takes account of changing circumstances

- respects children’s rights and parental rights and responsibilities
- offers equality of access to justice
- is efficient, effective and offers value for money
- is compassionate and caring
- values timely outcomes
- protects vulnerable children and families
- is evidence based
- intervenes early before problems escalate
- offers a problem-solving approach for families, within and outside of court proceedings
- sets clear standards which the public and service users can understand and relate to.

Our long-term vision

8. Investment in innovation is a sound strategy but it can create pockets of best practice that are not widely replicated and are unsustainable without long-term funding or mandatory roll-out. The successes of the Family Justice Review show that we can achieve some change through fragmented systems, but this is limited and does not support a consistent quality of service to children and families across England. We believe that the best option for securing higher performance and better value for money is to introduce a more coordinated and managed service for family justice. This requires joined-up governance with a clear budget and management in order to be sustainable. The remit of this service would include:

- Diversion of many private law cases from court, building on programmes already being trialled by Cafcass and the courts. Our evidence is that up to a third of cases could be safely diverted from the court process, but these families still need some external support to reach an agreement that is in the child’s best interests. A more visible, contemporary and accessible out of court pathway should be available nationally, with court time confined to applications with child protection concerns or new points of law. This would require initial investment but has the potential to deliver long term savings.
- Legislative change to enable more delegated powers over minor matters to practitioners, so that social works have the same level of authority vis a vis the family court that probation officers have in respect of some offending behaviour with criminal courts. Almost a third of private law applications are ‘repeats’, with the majority returning to court within two years. Introducing delegated authority to agencies would mean that a practitioner could work with these families to agree minor variations to court orders, without the need for court time or a ‘full’ private law service. Such changes could be signed off by a senior professional manager within agencies, to ensure good governance, as happens in probation.
- Legislative change to eliminate duplication in oversight roles within care proceedings, currently comprising the local authority social worker, Independent Reviewing Officer, children’s guardian, child’s solicitor, local authority quality assurance staff, local authority lawyers and social work managers. In England we have a vast team around the child, not replicated anywhere else in the world. There is scope to explore whether children can continue to be safeguarded, and find their

optimal permanence option, with fewer levels of professional oversight so that more social workers can operate on the frontline.

- A unified data management system that could highlight – in real time – regional variation and demand, support learning, and drive a better understanding of long term outcomes for children. Stakeholders within the family justice system are currently exploring ways of linking up existing fragmented systems but we will not progress to unification without far better and more sophisticated data and metrics.
- Targeted early intervention resources and a reduction in the degree of geographical variation in the life chances for children. As it stands, a child in Blackpool is ten times more likely to be in care than a child in Wokingham. And yet some local authorities are managing risk, using care proceedings well, and have a good track record of securing early permanence. A joined-up system would ensure greater equality in the service provided to children and families, supported by clear national pathways for early help and pre-proceedings work.

What we can do now

9. Reform is already happening. The evidence base is growing, supported through academic research and innovations such as the Family Justice Observatory and the DfE-led What Works programme. We can be a catalyst for change, working alongside partners across the family justice system to drive reform forward. Work is already underway on:

- Offering clear dispute resolution options as an alternative to court, not limited to mediation and including digital options. We've launched a pilot in Manchester, working with the courts and commissioned services, to offer out of court alternatives to separated parents where this is safe. This programme has the potential to save huge resources and, once evaluated, could be a stepping stone to a broader court reform programme.
- Supporting the sector-led care crisis review and championing a national pre-proceedings strategy and service; a distinct and recognisable national framework, locally delivered. Evaluations of programmes like Pause and FDAC show that change can be achieved with the right programme, properly funded and delivered by professionals across agencies with the right skill set and access to targeted resources. Such programmes could be extended to every local authority area if the local conditions can be made right.

To conclude

We recognise that legislation is required to bring about wholesale improvement within the system, but we also recognise that reform is already happening. The idea of innovation and reform should not be constrained by resources; it is about improving the day to day experience of children going through the family court system, and there is a lot that could and should be done now to improve this. We hope that the reform programme we have suggested, alongside other innovations across the sector, will provide a much needed evidence base for a sustainable family justice system going into the complex and challenging future.

Baroness Tyler, John Lakin, Caroline Corby, Francis Plowden and Deep Sagar – on behalf of the Cafcass Board and Executive.

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