

# The Michael Sieff Foundation

working together for children's welfare



*in conjunction with*



## **The Future of Care Proceedings**

Report of the conference  
at Kingsway Hall Hotel, London

16 and 17 April 2007

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# The Michael Sieff Foundation Children Law UK

## 1. PURPOSE

This conference on the Future of Care Proceedings was organized by the Michael Sieff Foundation and Children Law UK with a view to considering proposals for change to improve the conduct of care proceedings. The removal of a child from parents, sometimes with a plan for adoption, is the most serious state intervention in family life. The Children Act 1989 established a structure for care proceedings, which has now been operating for 16 years and it is timely to review its operation. The Government has been considering care proceedings in the light of what appears to be its view that they are unnecessarily expensive.

At present children can be removed for lengthy periods before the Court is in a position to take decisions about their long term future. The Judicial Case Management Protocol, while establishing a common framework for the conduct of the proceedings, has not succeeded in reducing the delays in the making of final orders. Delay has consequences both in terms of the welfare of the child and the expense of the proceedings.

Proceedings are commenced by a local authority which often then requires time to carry out further assessments. Research gives a figure of 89% for the involvement of additional medical or psychiatric expertise (Brophy et al 2003). One of the major problems seems to be the high levels of mental health problems in parents (over 40% of parents in care proceedings

have such problems and this finding has remained constant over several years). There is little evidence of a mental health input which considers the patient as a 'parent' prior to proceedings – or which is based on a dual diagnosis (usual requirement is mental health and substance abuse).

There are also indications of a rise in the number of cases coming before the court without a core assessment of the family by the local authority – even though families are well known to social services and children are or have been on the Child Protection Register for some time (Brophy et al 2003). We know what is needed – the problem is skills and resources, both of which impinge on the capacity of social workers to apply analytical thinking in the planning of cases.

The parties are not under existing arrangements likely to get advice prior to the commencement of proceedings, with one consequence that proceedings may be initiated when earlier advice might have led to it being unnecessary, especially given that in 70% of cases failure to cooperate with health and welfare agencies is regarded as a problem.

These are crucial issues for discussion and action.

**Richard White**, *Secretary, The Michael Sieff Foundation*

**Glyn Farrow**, *Chief Executive, Children Law UK*

## 2. INTRODUCTION

Opening the conference, chairman of the trustees of The Michael Sieff Foundation John Tenconi warned of the risk of reducing standards of support for vulnerable children on financial grounds.

The conference, he said, would open the debate on the content of the new Court Case Management Protocol and new Local Authority guidance and the key importance of their successful integration for children exposed to the success or failure of the implementation of these interfaces.

“While we recognize the importance of not being preoccupied with financial and resource issues, we also consider that it is difficult to avoid noting that a country as wealthy and advanced as ours is at risk of reducing standards of support available to children in need of protection on fiscal grounds,” Mr Tenconi said..

Recalling that for 20 years the Foundation has organized conferences at the cutting edge of issues concerning the welfare of children, he said the topics now being reviewed were of vital importance and would lead to meaningful conclusions and recommendations.

### 3. OUTCOMES

*Following presentations of papers, there were group discussions based around the following topics:*

*The Role of the Local Authority  
The Judicial Case Management Protocol  
Representation of Children  
Statutory Guidance on Care Proceedings  
The Role of Experts*

*Inevitably, discussion in groups crossed the borders of the topics, as did the subsequent plenary discussion. The following is a summary of matters debated.*

#### **PROMOTE CHILDREN'S 'WORKFORCE'**

**It was broadly agreed that there is an urgent need to raise the quality and therefore the status and profile of the Children's Services workforce.** "Options for excellence" needs to be implemented and funded as soon as possible.

**Deep and widespread concern was expressed about the future of legal representation in public law proceedings if the legal aid reforms are implemented as currently proposed.** There was concern about the impact upon the quality of decision making and the potential for breach of the human rights of the most vulnerable children and their families. The new protocol will be seriously compromised unless there are sufficient, experienced lawyers to undertake its implementation.

**Best practice should be established** in regard to the use of pre-proceedings advice, support and advocacy initiatives such as family group conferences and exploration of any appropriate kinship care opportunities for the child prior to care proceedings.

#### **HOW WILL FIXED FEE FUNDING WORK?**

**Specialist advocacy should be provided** to families from the point of an initial child protection conference. Specialist advocates need extensive experience of child welfare but need not necessarily be lawyers. *[Since the conference, the Legal Services Commission has announced plans to make a fixed fee from public funding available to parents for them to obtain legal advice once a local authority has stated an intention to commence care proceedings. There will need to be further consideration about how this will work in practice.]*

**Parents, others with parental responsibility and carers (the relevant person) should be eligible for public funding to enable them to access independent legal advice** from the earliest of the following:

- a) the initiation of section 47 inquiries;
- b) their child beginning to be looked after;
- c) service of notice by the local authority of an intention to seek an emergency protection order or issue care proceedings;
- d) the local authority stipulating how the relevant person should care for the children or children concerned.

**Consideration should be given to offering a Family Group Conference to all families** prior to their child being looked after or the issue of care proceedings, unless there are circumstances justifying the authority not doing so.

#### **CARE PLAN PRIORITIES**

**There needs to be scrutiny of the overlapping and duplication of assessment processes and tools** to achieve one working document for the creation and monitoring of a care plan which is acceptable for all appropriate audiences.

At present there are the Common Assessment Framework, the Integrated Care System, the five outcomes in the Children Act 2004, the core assessment and LAC paperwork. There is confusion among practitioners and it must be far more so for families. **There is a need to clarify what constitutes a good clear, multi agency social work assessment that will be the foundation for a further forensic or specialist assessment if necessary.**

A core assessment should be a multi-disciplinary assessment to include cultural and religious aspects and health and educational needs. An outline care plan for care proceedings should be one multi-disciplinary document for each child, which should include all other documents including health and education reports. The requisite training must be provided to support and achieve the assessment and plan.

**All children subject to a section 47 investigation or a core assessment should have a 'Whole Child Assessment' co-ordinated by a well qualified social worker to answer the questions:**  
What are the child's needs now? Can the parent

fulfil the child's needs now? If not, are further assessments needed? What help, if any, would enable the parents to fulfil the child's needs? If the parents cannot fulfil the child's needs what steps are required next? Which of the various professionals involved, will become witnesses in any proceedings? Are there issues calling for expert evidence?

In the event of a need for a further assessment for care proceedings, a decision has to be taken about how it should be funded.

Can there be court based advice from specialist services, for example in relation to drug and alcohol and domestic violence?

*[Since the conference a new draft Judicial Case Management Protocol has been published for consultation: see letter from the President of the Family Division dated 21 June 2007 at the end of OUTCOMES. The matters considered below were discussed before the detail of that draft were available.]*

### **COURT APPLICATIONS**

**All court applications should be filed with a schedule of facts, a threshold document and a list of the assessments undertaken with their conclusions and recommendations.**

The threshold document should be considered and resolved at the Case Management Conference, or otherwise dealt with at as early stage of the proceedings as possible to enable the basis of the case to be established and where possible to assist the parents to 'move on'.

Greater efforts need to be made to achieve judicial continuity.

Consideration should be given to the siting of teams based at court to provide specialist advice in cases of substance abuse and domestic violence.

### **INTERDISCIPLINARY TRAINING**

**New interdisciplinary training materials on the Judicial Case Management Protocol and the Guidance on the Children Act 1989 need to be devised and funded** jointly by the Department for Education and Skills and the Department for Constitutional Affairs (now the Ministry of Justice) in coordination with relevant organisations such as the Judicial Studies Board, the Family Justice Council, the Family Law Bar Association, the Law Society, the Association of Lawyers for Children, Resolution and the General Social Services Council for use with social workers and their legal advisers, the legal professions, Independent Reviewing Officers and CAFCASS.

The roles of the local authority, the guardian and an Independent Reviewing Officer during proceedings need to be clarified in relation to **care plans** and changes to them.

CAFCASS and (where already appointed) the Independent Reviewing Officer should be involved in scrutinising the making of the **care plan**, including the multi-disciplinary components, to ensure that it is both desirable and feasible and fully understood by all parties in order to achieve better outcomes for children.

**Independent Reviewing Officers should be independent of the care authority** and should have access to appropriate legal advice, including advice on the potential abuse of the human rights of children. It was questioned whether CAFCASS should become responsible for them or whether the role of the guardian should continue post proceedings as alternative ways of ensuring effective implementation of the care plan after conclusion of the court proceedings. There appear to be deep divisions of opinion about the management and supervision of cases post order but perhaps the most pressing aspect is to achieve for Independent Reviewing Officers a role which is, and is seen to be, independent.

### **SOLICITORS' CONCERNS**

**There is concern that the quality of experience and recruitment of solicitors in public law cases will deteriorate** with consequent effects on delay in proceedings and outcomes for children and their parents, and increased public expenditure

**Strategic plans for children** and young people should set out the obligations of local authorities in care proceedings.

**Children have a fundamental right to good services and a clear voice in decisions taken about them.** They are bearers of rights which may need to be developed and supported at a number of stages and ages in professional led processes and services.



PRESIDENT OF THE  
FAMILY DIVISION

**SIR MARK POTTER**

PRESIDENT OF THE FAMILY DIVISION AND HEAD OF  
FAMILY JUSTICE

21 June 2007

Dear Consultee,

**Consultation on the Public Law Outline**

I am writing to inform you about the consultation launched today by the Judicial Office for England and Wales, in conjunction with Her Majesty's Courts Service, on a new Public Law Outline (PLO) to replace the current Protocol for Judicial Case Management in Public Law Children Act Cases.

In early 2006, the Judicial Review Team published the Thematic Review of the Protocol. This examined how the current Protocol for progressing care cases was working. The Review of the Child Care Proceedings System in England and Wales, published May 2006, also recognised that there were benefits in simplifying the current Protocol and in improving case management procedures. Together with colleagues in Her Majesty's Courts Service, the Department for Education and Skills and the Welsh Assembly Government, we have agreed that a PLO will replace the current Protocol from April 2008.

It is important that I seek views on the content of the draft PLO to help inform the final draft, which will be produced later this year. I am therefore delighted to enclose a copy with this letter. Also enclosed is an explanatory note outlining the main changes, a summary of the documents which will need to be completed during proceedings, draft standard directions and a draft case management order. I intend to implement the PLO via a Practice Direction. The current draft of the Practice Direction is enclosed for your information. It has been drafted with the new Family Procedure Rules in mind which, when implemented, will support and underpin the new PLO. However, in advance of such Rules coming into force, appropriate amendments will be made

to the Practice Direction in order for it to become effective from April 2008.

You will note from the draft that my aim is to streamline the process, with the current six stages of the Protocol reduced to four, and enhanced case management and advocacy preparation to support this. Taken together with revised statutory guidance for local authorities<sup>1</sup>, which has also been issued for consultation today, there will also be increased emphasis on preparation pre-proceedings. Additionally, the timetable for progressing the case will be fixed around the needs of the individual child involved and final hearing dates will only be set when the issues in the case have been agreed and narrowed.

You may be interested to note that the current draft of the PLO is also being tested in 10 initiative centres<sup>2</sup> across England and Wales. The Designated Family Judges in each of these centres will report to me on progress in October, which will also help me in producing the final version.

I would be grateful if you could provide responses to this letter by **Thursday 13 September 2007** to:

Marie Del Pino, Care Proceedings Programme  
Her Majesty's Courts Service  
4.22, Selborne House  
54-60 Victoria Street  
London  
SW1E 6QW  
Email:careproceedings@hmcourts-service.gsi.gov.uk

Please note that there will not be an official response to this consultation. My Judicial Review Team will take into account all matters raised before I approve the final draft of the Outline.

*Mark Potter*

<sup>1</sup> Volume 1 Children Act 1989 Guidance and Regulations, to be issued in November 2007

<sup>2</sup> Birmingham, Leicester, Liverpool, London, Newcastle, Oxford/Milton Keynes, Portsmouth, Plymouth/Exeter, Swansea and Warrington

## 4. MICHAEL SIEFF FOUNDATION/CHILDREN LAW UK CONFERENCE

16-17 APRIL 2007

**Bruce Clark, Deputy Director - Children, Young People & Families Directorate, DfES:**

### **Statutory Guidance for Care Proceedings – A DfES view of ‘work in progress’**

#### **Background**

Volume 1 (Court Orders) of the Children Act 1989 Guidance has been in place since 1991. Since 1998, there have been indications from Government that the Guidance would be updated, though other changes have slowed the pace of delivery of this commitment (e.g. Victoria Climbié Inquiry, Children Act 2004 etc).

Growing concerns about delay in Children Act 1989 public law proceedings have persisted for a decade or more, despite initiatives such as Dame Margaret Booth's report, a subsequent scoping study on delay (by the then Lord Chancellor's Department) and, most recently, the *Review of the Child Care Proceedings System in England and Wales*.

The trigger for the current revision exercise has been the recommendations set out in the Report of this Review, even though the wider review of the remaining volumes is likely to need to await legislative changes that may result from the Government's consideration of consultation responses to the proposals set out in *Care Matters: Transforming the lives of Children and Young People in Care*.

#### **Key factors underpinning the revision of Volume 1**

A number of important changes have taken place since the publication of the current guidance. In particular, following our important:-

(1) incorporation of the European Convention on Fundamental Rights and Freedoms into domestic legislation through the Human Rights Act 1998. This has meant, for example, that the key issue of proportionality needs fuller reflection in the guidance;

(2) substantial structural changes to the organisation of local authorities, with the creation of specialist children's services authorities, bringing together the education functions and the children's social services functions formerly to be

found in separate Departments of local authorities. Linked to this, the creation of the statutory role of Director of Children's Services and the Lead Member for Children's Services, through the Children Act 2004;

(3) developments to the inter-agency infrastructure overseeing safeguarding arrangements for children at risk of or suffering significant harm, through the establishment of statutory Local Safeguarding Children's Boards, replacing the previous Area Child Protection Committee arrangements;

(4) the creation of the Children and Family Court Advisory Support Service (CAFCASS) in 2001, bringing together more than 100 separate organisations with responsibilities for children in both public and private family law proceedings;

(5) the publication of successive new editions of *Working Together to Safeguard Children*, inter-agency guidance on child protection practice, in both 1999 and 2006, updating the original 1991 edition. Linked to this, a range of supplementary child protection guidance covering specific groups or issues and statutory guidance on the assessment of children: *Framework for the Assessment of Children in Need and their Families (2000)*.

#### **Changes in the revised guidance**

Many of the Review's two dozen or so recommendations relate directly to local authority practice. Beyond primary and secondary legislation, the Secretary of State (now of education and skills) has the power to issue guidance to local authorities about the exercise of their functions under the Children Act 1989. The revised guidance, now in an advanced stage of drafting pending a formal consultation process is being developed in a way that is closely aligned to the judiciary's review of the 2003 *The Protocol for Judicial Case Management in Public Law Children Act Cases*. In particular, that majority of the pre-application processes that relate to local

authority activity is being addressed in the revised guidance, as follows:-

### **Pre-application assessment processes**

The revised guidance will make explicit the expectation that the Assessment Framework and Working Together processes are to be followed prior to the making of any Part 4 Children Act 1989 application. Key within this is the expectation that a core assessment will be an essential precursor to the making of any section 31 application.

### **Improved consistency of communication with parents (and children)**

The revised guidance will make clear that the local authority is, subject to safety considerations, expected to communicate its intention to apply for an order, and communicate this in ways that will be understood. An important linked development is the access that parents will be able to have to General Family Help on receipt of the local authority's notification. Similarly important is the expectation that the local authority sets out its outline care plan for the child, especially in the immediate period following the making of the application and, at least in principle, into the medium/longer term.

### **Preparation for proceedings**

The review of the Protocol has enabled the guidance to incorporate its findings, in terms of specifying what information is needed at the time an application is made, which in turn has highlighted the key role that the local authority's legal adviser needs to play in ensuring that the requirements of the court can be made from the point at which the application is made.

### **Integration of Care Planning**

The development of the Integrated Children's System (ICS) creates the opportunity to bring to an end the separate processes of care planning for the courts (through the requirements of Local Authority Circular 99/29) and the separate processes surrounding reviews of the cases of looked after children. The role of the new Independent Reviewing Officer is also pivotal in this connection, both during proceedings and beyond. This integration also means that consideration of permanent options and parallel/contingency/twin-track planning can all take place within a single planning regime.

## **5. Sir Ernest Ryder, *Justice of the High Court***

### **Judicial Case Management Protocol**

There is a worrying sense of Déjà vu about this conference. When Munby J, Coleridge J, myself and HH Judge Cryan finished the last protocol we made ourselves (and everyone else) 2 promises:

- a) not to accept an invitation in such all embracing terms again and
- b) to give the system and everyone in it time to digest and develop good practice in an incremental, calm and ordered fashion

So why am I here?

Well, the short answer is that everyone else is on leave, but the real clue to the judicial imperative for what we are about today and tomorrow is that the Constitutional Reform Act has changed the way the judiciary manage themselves and by judiciary, I include the lay bench i.e. magistrates and their specialist legal advisors. With the statutory independence that the Act conferred came responsibilities previously held by a

government Minister, the Lord Chancellor. These responsibilities are now held by the Lord Chief Justice and they are delegated to a cadre of management judges in the Court of Appeal, High Court and among the Circuit Bench at Designated and Resident Judge level. The Heads of Division meet in a judicial executive board and the presiding judges for London and each of the Regions or Circuits of England and Wales (and that includes 7 Family Division judges) have individual responsibility to their heads of division and to the Senior Presiding Judge for the management of criminal, civil and family justice.

You might well say, so what?

With responsibility comes accountability. Something we will consider, perhaps, in greater depth in the transparency debate tomorrow. What we do should be open to scrutiny as should the circumstances including the resource shortfalls within which we do it. As Family

Division Liaison Judges or Presiding Judges neither I nor my colleagues are controlled by Government, and in particular, Treasury targets. However, it does matter to us that Key Performance Indicator targets are linked to risk averse reporting mechanisms that are ultimately linked to Departmental Funding e.g. if a Government overspend on legal aid has to be met by a reduction in spending on the courts system then the very infrastructure that we work within will suffer.

At a macro level that will involve the Senior Judiciary saying that there are insufficient funds to permit the justice system to be Article 6 or Article 8 compliant i.e. unacceptable delay is neither compliant with the Government's duty under the Constitutional Reform Act nor the freestanding Human Rights Act provisions.

At a micro level it is incumbent upon us to develop our own systems as Judges that are themselves fit for purpose i.e. Human Rights Act compliant and accountable in the sense of being open to scrutiny.

The judiciary's first shot in that direction was the Judicial Resources Review – conducted in partnership with Government. So far as family judges are concerned, the President's first step on taking up his appointment was to commission the Thematic Review by the Judicial Review Team and that report, which you all have for today, was my first draft of the judicial component of a family justice system.

We have, of course, moved on from November 2005 when that document was first published. In particular, we have all been part of the Government's legal aid review which spawned both the Child Care Proceedings Review and the Carter Report. I am not going to dwell on these review processes as they have different imperatives from that which underscores the judicial projects and both my own personal views and those of Lord Justice Wall, on the topic of the first legal aid proposals are, I suspect, very well known. I have not consulted my colleagues on the second legal aid proposals and you will therefore understand that I shall refrain from comment today.

In November 2006 the President accepted the advice of his Judicial Review Team not only to push for implementation of their own case management reforms which you will find at paragraphs 46 to 51 of the Thematic Review but also to take responsibility for a fundamental review of what we are doing. That process has also now been published. The Framework for a Family Court is a judicial programme to reform the development of family justice and the implementation of procedural good practice. The

aim of the Framework is to provide a blueprint or model for an integrated family court. The Framework has 7 components. It involves coordination of over 20 national reviews, consultations, pilots and working parties that impinge on family justice and a programme for implementation of reform. The 7 components are:

- 1) Arrangements for judicial management of a family court – comprising judges of the High Court, Circuit and District Judges and magistrates of the family proceedings court
- 2) Allocation criteria for the categorisation and distribution of family proceedings
- 3) Gatekeeper and listing guidance for the issue and allocation of, and administrative support for, family proceedings
- 4) A public law case management practice direction (the revised Protocol)
- 5) A private law case management practice direction (the revised Private Law Programme)
- 6) New Family Procedure rules (as devised by the Family Proceedings Rule Committee)
- 7) A new model for a Family Court Plan for each local justice area

The implementation programme is likewise in 7 stages:

- 1) For public law cases four judicial initiatives in Portsmouth, London, Liverpool and Cardiff to test out arrangements for allocation and case management of public law care cases
- 2) For private law cases, a review of the progress of the Private Law Programme to date
- 3) Conclusions as to the arrangements to be followed will be inserted into the Framework
- 4) The public law aspects of the Framework will then be implemented in pilot centres within each region
- 5) The judiciary will then review the pilots
- 6) This will be coincident with the finalisation of the new Family Procedure Rules by the FPRC taking into account the new arrangements
- 7) Full implementation of the Programme nationwide

and the overall timeline which you have as a judicial timetable shows how we get from where we are today to full implementation of the reform by April 2008.

I am not going to spend any time this morning describing the private law programme review or the development of lead judge management systems with responsibility for groups of courts and specialist work such as the money and international lists. I am going to concentrate on the proposal to review the public law case management protocol.

Let me first describe some assumptions and constraints within which I have to work but which you of course are free to challenge and discuss. I shall describe them as objectives with the overall aim of safeguarding the welfare of the child.

1. Delay that is not planned and purposeful is likely to be harmful to a child.
2. There is a duty on a Local Authority to assess a parent or carer to provide that information which is described by the domains of the Common Framework for Assessment materials.
3. Absent exceptional circumstances, a failure to undertake such an assessment which is not merely an assessment of the viability of someone's case is unlawful. There is clear Administrative Court authority for that proposition.
4. The trigger for the duty to assess is not the commencement of public law proceedings unless nothing has been known of a family before an urgent precipitating circumstance requires that such a step be taken.
5. The Legal Services Commission provide funding in accordance with a funding code that is for the purposes of representation not treatment, therapy, education or accommodation, each of which is the responsibility of another agency.
6. There may be no duty to improve a parent's capability at the expense of the state but that does not abrogate the Articles 6 and 8 procedural and substantive human rights protections that require consideration of how to re-habilitate a child into that child's family in so far as that step is consistent with welfare.
7. The positive obligation inherent in the state including the courts as a public agency is to secure rehabilitation or expeditious placement in an alternative family placement.
8. In order to case manage these obligations, rights and duties, the control of assessments post issue of proceedings is vested in the court.
9. Tying together that power and the unlawfulness of a circumstance where a Local Authority has not conducted assessment processes it is incumbent on the judiciary to set out minimum expectations not just for work within proceedings which can and should be done by case management principles but also pre-proceedings i.e. what is the minimum you will be expected to have done save in urgent or emergency circumstances before or by the issue of proceedings.

These 9 questions are linked to a 10<sup>th</sup> that you will see described in the Thematic Review which is that every child who is the subject of proceedings should have their own timetable.

Whatever Government funding KPI's may reveal, it is not in a child's best interests to have a full hearing listed at the 40<sup>th</sup> week of the child's life within proceedings simply because that is all that central Government can commit itself to.

That timetable ought to be substantially shorter or longer dependant on the real circumstances of the case and the child.

Putting all of these questions together we decided some time ago that the existing case management protocol did not achieve the aims that we had identified. What it had done was to identify best practice in 2003 but by reason of the compromises, some would say pragmatic consultation revisions, it had failed to provide a mechanism for incremental best practice revision and it contained on its face the interests of its contributor groups, including central Government, which are not necessarily at one with the interests of the children it is intended to serve..

It is for the judiciary in our new constitutional arrangements to set out its own procedural stall to guarantee rights and freedoms and that is what we seek to do in this aspect of the Framework Review i.e. in the design of a new Case Management Protocol. The new protocol will be designed to dovetail with the new family proceedings rules that are themselves due for implementation in late 2008. The protocol will be a skeleton of approx 3 or 4 pages in Practice Direction format with a series of guidance documents – possibly also in PD format all of which 'hang off' the rules. Four of those guidance documents or PD's will be:

- a) Case Management Principles i.e. how to use the protocol
- b) Allocation principles i.e. who should hear what, where – a draft is already in the public domain
- c) Principles for use of experts
- d) The inter-relationship with adoption and placement

One aspect of the old protocol is missing and that is the Local Authority child protection and assessment processes and care planning. This is because the DfES i.e. Bruce Clark's team have risen to the challenge to re-write s7 LASSA guidance which is to be published alongside new Rules and PD's.

The essential structure of a new case management protocol will be based on 4 instead of 6 stages as follows:

- 1) A pre-proceedings stage with legal aid funding within which core framework assessments should be undertaken and a parent or carer and the older child should have explained to them and their lawyer what it is necessary to do to safeguard their child i.e. to avoid proceedings and likewise what the local authority should do

to achieve the same. That advice must be contained in a document in plain language which Bruce has for the moment called an outline care plan. The Judges described it in the Thematic Review as a case plan – it is essentially a missing link between the new Integrated Children’s System materials and the court process that permits a parent and older child to understand expectations so as to satisfy a child’s needs. The pre-proceedings stage will lead to a basic checklist of materials necessary for the commencement of all but the most urgent of cases.

- 2) A new Stage 1 i.e. issue and first appointment in the FPC with the emphasis on the following:
  - Identifying fast track cases known as Early Final Hearings
  - Standard directions on issue to secure compliance with the pre-proceedings checklist in particular the outline care plan, core assessments and the findings alleged.
  - First identification of the timetable for the child
  - Allocation of proceedings by reference to the allocation guidance
- 3) A new Stage 2 – The CMC
  - Which abandons the allocation hearing which becomes a duty on all judges throughout proceedings
  - Which concentrates on key issues identifying what are the central questions which have to be answered to determine the future of the child concerned
  - Confirms the timetable for the child
- 4) A new Stage 3 – The IRH
  - In place of the PHR which is also abandoned giving a new opportunity between 16 and 25 weeks i.e. post experts reports if necessary and their meeting to crystallise key issues that remain and to give indications including after hearing some limited oral evidence – a process of early neutral evaluation of the case to help resolve issues without the full hearing
- 5) A new stage 4 – FH if necessary

Stages 2 & 3 will have a heavy case management ethos and will need a great deal more preparation than hitherto with advocates’ meetings taking place no later than 2 or 3 days beforehand and the completion of a case management return in the form of a draft template order. All other documents are barred unless specifically permitted by the outline protocol.

In summary, there are four stages with the following essential elements:

- a pre-proceedings stage and checklist incorporating -
  - Core assessment materials
  - An outline care plan
  - Draft findings sought
- the allocation of cases to the most appropriate tribunal at the earliest stage by reference to all allocation guidance
- the case management of proceedings by reference to a new case management tool which provides a comprehensive draft order in every case based on the identification of key issues by the parties
- pro-active resolution of issues where practicable and in the interest of the child
- a timetable for each child

Let me emphasise that all of this assumes that the FPC will shoulder the burden of a greater volume of private FLA and public law proceedings as will the DJ’s and DJ’s (MC) both with extended full hearing jurisdiction. That is provided for in the allocation guidance which is drafted on the basis that each case is heard by the lowest tier of court appropriate to its urgency, gravity and complexity. It also assumes that eventually we will identify more specialist judges and magistrates to undertake this work.

As I promised, I have not dwelt on the impact on practitioners: social work, legal or expert. We have not ignored them, far from it, the process of discussion in particular using the National and local FJC’s has provided graphic issues for us to consider and have regard to. There will be formal consultation later this year. This is an opportunity to address fundamental questions rather than fine detail and I welcome the opportunity to have that debate today.

### Judicial Review Team

#### **Thematic Review of the Protocol for Judicial Case Management in Public Law Children Act Cases** **Extract**

**46. A Pre-Proceedings Protocol:** the re-introduction of a proposal made to the Lord Chancellor’s Advisory Committee in 2002 to enhance existing guidance issued to local authorities under section 7 of the Local Authority Social Services Act 1970 by a detailed protocol or Practice Direction which describes best practice prior to an application being made with the intention of a) avoiding proceedings in appropriate cases where issues can be resolved in an ADR environment and b) concurrently with (a) preparing for

proceedings by identifying key issues, goals and their components, to minimise delay and costs.

**47. A Children's Dispute Resolution Appointment (CDRA):**

the introduction of a judicially led initial stage to all care proceedings bringing together 3 concepts: (i) 'early neutral evaluation', (ii) inter-disciplinary professional advice to the court on key issue identification, case management and assessment (itself mirroring recent proposals made by the Chief Executive of CAFCASS in the consultation document: 'Every Day Matters') and (iii) case planning. The introduction of a CDRA ought to be at least cost neutral, by serving to combine or eliminate steps 1, 2 and 3 (and in some cases step 4) of the Protocol.

**48. The Case Plan:** the introduction of the concept of a 'case plan' which describes in words that are comprehensible to the parties:

- a. The identified key issues
- b. The goals that need to be achieved for the child to receive the standard of care that he/she needs
- c. The components of the goals: i.e. clear and unambiguous inter-disciplinary advice on the steps that are necessary to achieve the goals
- d. A child centred timetable for the achievement of the goals and decisions in the proceedings
- e. Accountability for delivery of the plan and its parts
- f. A mechanism for re-evaluation to take account of any changes of circumstance during the plan.

**49.** It should be noted that (a) and (b) are likely to embody the threshold criteria and such facts as need to be proved to inform effective care planning; (c) will describe the essential elements of an interim care plan and (d) will provide the case timetable which remains the primary device by which a child can be protected from the detrimental effects of unnecessary delay and poor planning processes. Their identification as a matter of course in every case and as a concise and readily comprehensible set of propositions will do much to simplify issues in particular where proceedings have to be taken.

**50.** The JRT has been significantly assisted in its forward thinking by recent experience of the judiciary as advised by leading forensic experts, existing healthcare and social care research materials and the experience of healthcare professionals who use a model known as 'treatment evaluation' for rehabilitative care. The model proposed would make provision for inter-disciplinary advice at the earliest stage of a referral and the construction of a written case plan that forms the basis either for agreements with families or for independent decision making. It is particularly suitable for use in the child protection arena and if used in a consistent manner by professionals both before and during proceedings it could dramatically improve issue resolution, case management and timely decision making.

**51.** It is the provisional view of the JRT that if 'treatment evaluation' and case planning were adopted by social and health care professionals and the courts, much of what is suggested to be 'wrong' with care proceedings could be improved. For example the 'medicalisation' of proceedings would be replaced by an enhanced inter-disciplinary emphasis which would be more comprehensible to parents and children alike and adversarial disputes about key issues would be clarified, and where possible, minimised. There will always be a core of serious allegations and welfare issues which if unacknowledged have to be determined by a court. However as a logical, and some would say necessary, precursor to a Care Plan, the use of the case plan mechanism should be effective to reduce protracted welfare disputes which frequently arise out of inadequately thought through care planning.

**Framework for a Family Court**

As the first Head of Family Justice responsible for the judicial management of all Family Judges and Family Magistrates, the President is leading work to establish a **Framework for a Family Court**. When complete, the Framework will set out decisions in the following areas:

- 1) Arrangements for judicial management of a family court - comprising judges of the High Court, Circuit and District Judges and magistrates of the family proceedings court
- 2) Allocation criteria for the categorisation and distribution of family proceedings

- 3) Gatekeeper and listing guidance for the issue and allocation of, and administrative support for, family proceedings
- 4) A public law case management practice direction (the revised Protocol)
- 5) A private law case management practice direction (the revised Private Law Programme)
- 6) New Family Procedure Rules (as devised by the Family Proceedings Rule Committee)
- 7) A new model for a Family Court Plan for each local justice area

In completing this framework it will be necessary to ensure that the numerous projects currently under way in the family justice system are co-ordinated and properly planned. The inter-relationship between these activities and the involvement of the judiciary in them (often in a determinative or pivotal role) makes proper co-ordination essential.

The involvement of, and relationship between the family judiciary and the key family justice agencies, (DCA/HMCS Family Policy, DfES and CAF/CASS) has already been brokered by the formation of the President's Combined Development Board and a Ministerial Strategic Group. These groups, and those supporting them, will ensure proper co-ordination and the development of an overall approach to family justice, which will be disseminated so as to ensure that there is clarity and understanding of the inter-relationship between initiatives.

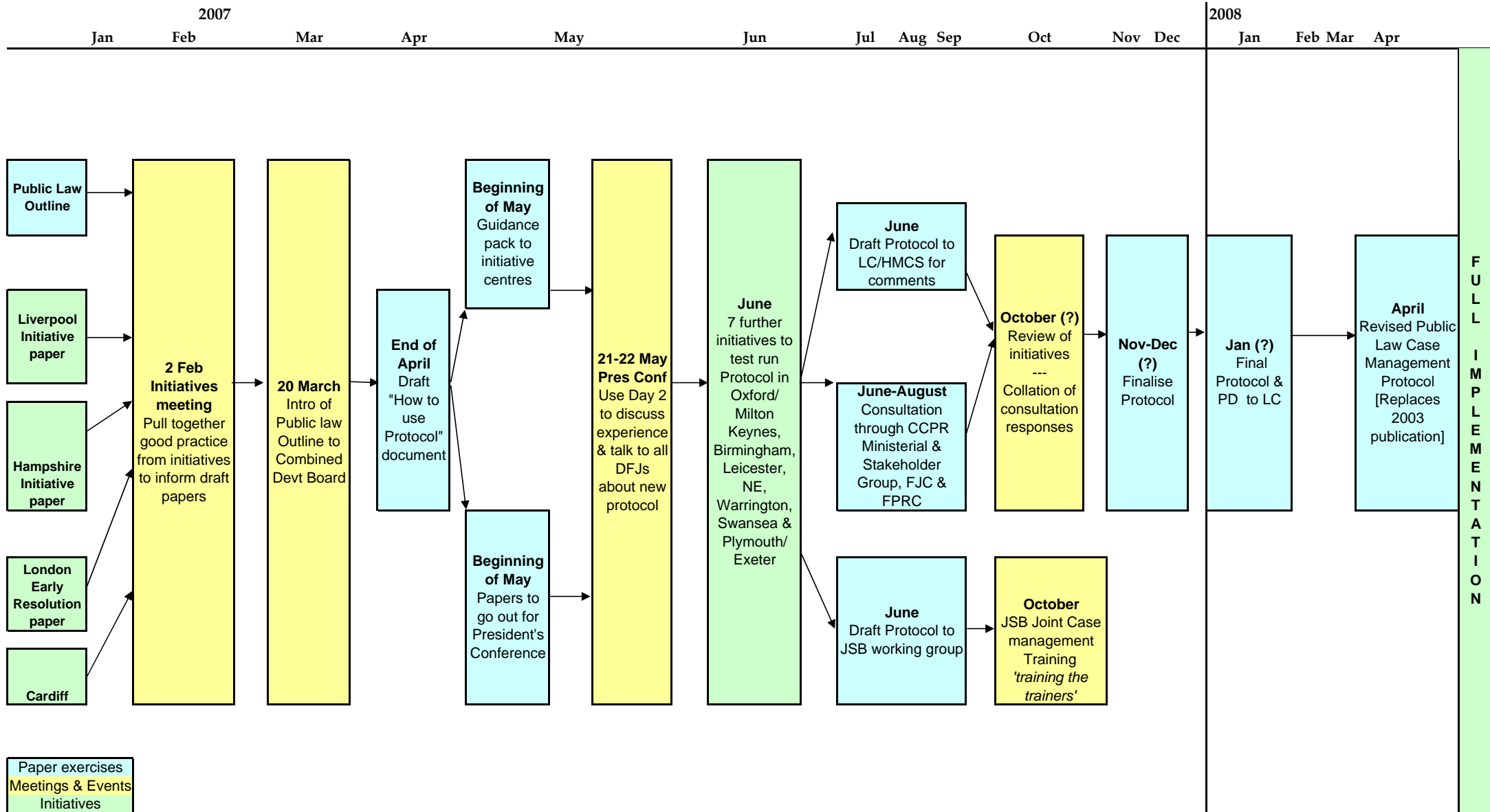
As part of this drive towards improved co-ordination, with immediate effect so far as family judges are concerned, all requests for judicial assistance on national and local projects and initiatives (as opposed to inquiries in relation to day-to-day business) received from Area and Regional Directors and Headquarters HMCS / DCA and DfES should be communicated to the President's Office. These will then be discussed with the appropriate Family Division Liaison Judge (and where necessary the appropriate Presiding Judge) before such request is acted upon.

The Framework will be informed by a judicial Programme to be implemented as follows:

- 1) For public law cases four judicial initiatives in Portsmouth, London, Liverpool and Cardiff to test out arrangements for allocation and case management of public law care cases
- 2) For private law cases, a review of the progress of the Private Law Programme to date
- 3) Conclusions as to the arrangements to be followed will be inserted into the Framework
- 4) The public law aspects of the Framework will then be implemented in pilot centres within each Region
- 5) The judiciary will then review the pilots
- 6) This will be coincident with the finalisation of the new Family Procedure Rules by the FPRC taking into account the new arrangements
- 7) Full implementation of the Programme nationwide

As proposals and decisions on the Framework are made, they will be communicated and placed - within the overall headings shown above - on the judicial intranet.

# JUDICIAL TIMETABLE



## **6. Andrew Webb, *Director of Children's Services, Stockport Metropolitan Borough Council***

### **Case Management in Local Authorities**

#### **Outline of the Presentation of a Director of Children's Services**

##### **Summary**

Local Authorities are becoming ever more professional in their interventions in the lives of society's most vulnerable children. National statistics appear to support a picture of an increasingly stable size of "care" population with a higher proportion of children in care on statutory orders and over whom there is little dispute about the evidence of harm caused by their families. Yet Local Authorities appear to bear the brunt of criticism about delay in our systems and for the outcomes for children who have been looked after. We still allow care proceedings to dominate and drive our child care systems – not just in those cases that come before our courts, but also in setting the mood in which all agencies and legal parties operate in general. This has led to a steady growth in the volume of proceedings which is of itself, expensive (unsustainably so), time consuming and damaging to the wellbeing of children and the staff whose role it is to provide a service. Despite a growing understanding of these issues, our adversarial legal traditions are allowed to continue to dominate.

"Every Child Matters", the Children Act 2004 and "Care Matters" give us an opportunity to clarify a number of questions about the nature of the relationship between State and family, and there is a growing evidence base to underpin our quest for answers to these questions. I hope that this paper and the ensuing discussion will enable us to see statutory interventions in a different light – one in which the evidence of harm and the care planning processes are seen as more distinct activities and pursued accordingly. The role of the Local Authority is unique, and our expertise in working with children throughout their lives unparalleled yet our systems do not accord us expert status. If we are to continue to make progress and to capitalise on the principles of the Children Act 2004 we should consider making two specific moves: firstly to fundamentally re-think the care planning element of proceedings; and secondly to continue to invest in and support the development of the Social Work and family support workforce.

##### **Background**

In addressing this subject I have decided to discuss the broad context in which Local Authorities are operating in 2007 and rather than sticking slavishly to the original title, I thought I would use it as a theme and consider case management in its wider sense, both in "voluntary" and "statutory" cases. I also thought it would be useful to revisit the point of case management and the point of the intervention of local authorities in children's lives in the first place – in short, to touch on the question of what "care" is for.

Taken together, the Children Act 1989, and the Children Act 2004 embody high ideals and strong principles – they are riven with child-centred thinking. They had all-party (mostly) and multi-agency support in their respective passages through Whitehall and Westminster, but when I talk to my staff, I wonder whether we have collectively lost the plot over the last fifteen years, particularly in the conduct of cases through the courts.

My perspective is that of a Director of Children's Services – a post-2004 creation. My job description is in the 2004 Act and following Lord Laming's Inquiry into the death of Victoria Climbié, I'm designated as the person with whom the buck stops (in Stockport at least). I am accountable for everything to do with children that used to be my responsibility when I was Director of Social Services and everything that used to be the responsibility of the Chief Education Officer! So I may appear a bit rusty on some aspects of case management. On the one hand my role gives me a massive opportunity to make a positive difference for all the children of Stockport; but on the other hand the vagaries of the care and legal systems combine to produce circumstances which could be described as actively reducing the wellbeing and life chances of the most vulnerable. This creates a personal tension which I will explore below, and from a position that attempts to understand rather than judge as I don't have any evidence that collectively we do not mean well, it's just that we've become obsessed by process and lost sight of the outcome we hoped to achieve.

The following quotes give an indication of where we thought we were in 1991:

- The Children Act rests on the belief that children are best looked after within their family
- In deciding any question about a child's upbringing and administration of his property, the Court must treat the welfare of the child as the paramount consideration
- The Act makes it clear that delay in court proceedings is generally harmful to children
- In practice, the majority of public law cases will be heard entirely in the magistrate's family proceedings court
- The rules of court which regulate the proceedings across all three tiers of jurisdiction have been designed to promote a non-adversarial style in court.

I will stop there as I have only reached page 3 of Volume 1 of the Children Act 1989 guidance!

We know there have been many attempts at the highest level to stick to the above, and after many years of things getting steadily worse, we have begun to make headway - but only very slowly. We have seen progress in judicial case management, the approach of some of Guardians, and the quality of social work and its management. I know variable practice is to blame for some of the problems we face, and I have no intention of defending poor practice by anybody – least of all by my staff. I know from my previous role with the ADSS that there is significant variation in compliance with guidance and regulation, both between and within local authorities. Some social workers are poor; some quality assurance processes clearly do not work. The variation in the ability of local authorities to follow basic procedures appears beyond explanation. But, for those cases that make it to Court, there is overwhelming agreement that the thresholds for intervention have been met and the only debate revolves around the delivery of the care plan.

### **The nature of services**

The Children Act 1989 is an instrument designed to deliver an outcome. Its procedures are not an end in themselves. Local authorities are often criticised, in individual cases, for delaying statutory intervention when there is clear evidence of chronic neglect; they are also criticised for using Section 20 arrangements in a way that permits drift. The facts of these cases are then often used to question the local authority's competence in providing family support into the future. The perspective of somebody who only sees statutory intervention is highly skewed – it does not begin to provide a

picture of the work carried out by local authorities to safeguard and promote the wellbeing of children. From my position, someone who works entirely in the legal system is probably looking down the telescope the wrong way when it comes to the totality of children's services.

The Children Act 1989 requires local authorities to assess need and offer services in which there is a presumption that children will be kept at home if this can be done safely. The Children Act 2004 created a shift in the way universal services should be used and targeted on vulnerable groups. This shift supports a model of three levels of service: universal, targeted and those requiring case management. These levels are best seen as presenting a service continuum with fuzzy thresholds between them and in which children and families move in both directions at different times in their lives. The Children Act 2004 sets out to encourage investment in the first two levels of service to prevent the need to draw down case managed services. Within this model, the numbers of children receiving services at the case management level will depend on the adequacy of the provision lower down and the majority of services at the first two levels rarely make their presence felt in Court. A similar continuum model can be applied within the block of services subject to individual case management. I am not advocating that in all cases all interventions need to be tried sequentially, but I am clear that for many children, the moving picture of chaos in their family life mean that many things will be tried and will fail. This is the reality in which family support services operate. It is not necessarily the result of poor or inadequate assessment or even the inadequacy of our assessment tools (although all could do with some improvement).

We have an increasing body of evidence that tells us what children's social care services are actually doing. Repeated national "children in need" surveys demonstrate that the vast majority of children helped by what was children's social services are children in need who live at home. However, we also know that well over half the relevant budget is spent on looked after children who are relatively few in number. We also know that the need "identified" for these children is very rarely a result of their own pathology – over two thirds of children in need are deemed to be so simply as a result of their parents' mental ill-health, drug or alcohol abuse or domestic violence. Adult "conditions" which are differentially amenable to treatment or intervention, which change over time, and are unpredictable in their prognosis and, crucially for our children, are quite often found in extended families which are less than organised and supportive.

So, what has our social response to the above been, and what should it be? Once we have determined that, we should set the attitude, practice and culture of the legal system in support of our goals.

What is the prevailing mood in practice and service delivery and does it differ for those cases that come to Court? Researchers from Lancaster University have demonstrated with a number of local authorities that over 60% of referrals made (and received by local authorities as appropriate) under Section 47 of the Children Act 1989 show no evidence of harm or injury: professional concern, yes, but harm, no. One consequence of this startling fact is that families who may well benefit from supportive preventative services, begin their relationship with the statutory authorities with an investigation often involving the police. It is not surprising that by the time such cases reach the courts the two sides have adopted somewhat entrenched positions. From the perspective of a Director of Children's Services interested in evidence-informed practice, we need to shift this mood. All too often we employ a modus operandi designed to maximise our chances of succeeding in court rather than one designed to assess and support family needs.

How representative are these cases of the care population in general? How big is the consequence for us as a nation of this adversarial prevailing mood? On any day, there are about 60,000 children in care but this figure masks a highly complex picture. 40% of children entering care return home within 6 months, the majority within 12 months. The average length of stay in care is 2.5 years, which represents a very small part of a child's life. So is our approach in the legal system proportionate given these statistics?

Research shows that children who enter care at an earlier age are more likely to see positive outcomes. The statistics show that one national trend in the care population is that a higher proportion of children are entering care at a younger age, are subject to care orders and are staying longer. The care population nationally is rising driven by a rise in the rate of care proceedings and as a result of active engagement for families who abuse or neglect their children. The evidence from recent civil and criminal case reviews in response to national outrage suggests that almost all orders are made appropriately. At a recent meeting of key social workers and managers in Stockport that I attended, I was told that cases rarely come to evidence in respect of the threshold criteria these days.

So, if we think about it, most of the effort, resources, delay etc associated with care

proceedings is actually focused on speculating on what might be in the future, yet we continue to use a model that feels better suited to carrying out a robust murder trial than one designed to choose between the reliability of two future options, neither of which can be predicted accurately beyond the court door.

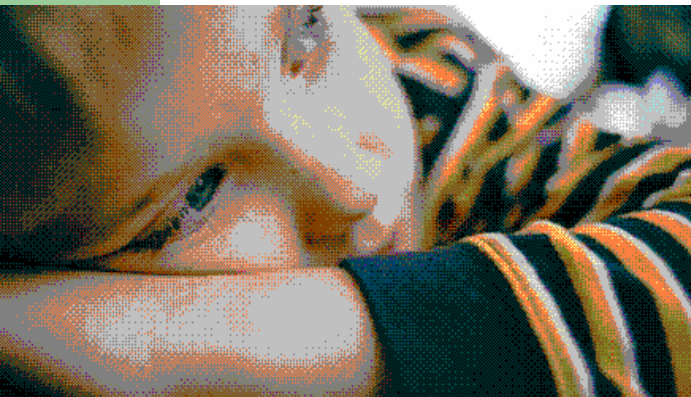
It is important that we do our best to get our decisions right rather than make them quickly. Even after proceedings have commenced, "delay" can be productive. As Lesley Newton at the Greater Manchester Care Centre pointed out recently, "proactive and careful judicial case management is the key to managing 'bad' delay". But the majority of cases are still subject to this concept of bad delay. In the sample to which she referred, only 32% of cases had used time to test rehabilitation. As an experienced manager in my local authority reminded me the other day, for many parents the first true "wake-up call" they get about the impact of their parenting is some months into protracted care proceedings.

### **How might we proceed?**

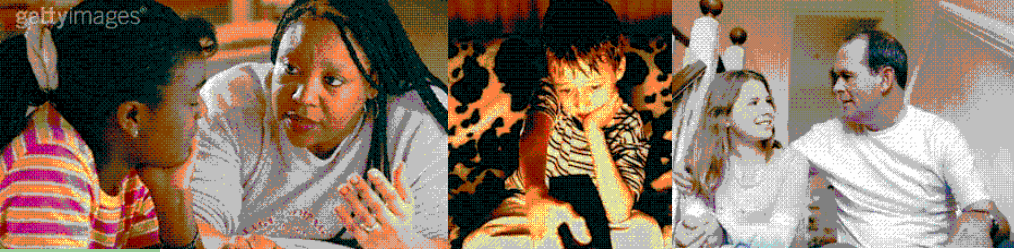
Some very sharp minds and a great number of extremely hard working people have grappled with aspects of our civil and criminal processes relating to children in recent years, yet these processes remain part of the problem. We have examined in detail the interactions of the various agencies in our systems, and looked for carrots and sticks to move people along – but have made only little progress. We have examined confidence and confidentiality but many people appear to remain wary, if not cynical about our systems and the motivation of those working in them. We have looked at the role and contribution of experts, but still have huge delays in determining the best care plan for children even when all agree that their future with their birth family is unlikely to be considered. My plea is that we switch our focus towards finding a non-adversarial approach to determining care plans – an approach designed to build on knowledge and expertise rather than to demolish it...and I am not sure whether this can be achieved within the existing parameters of our regulations and practice directions.



# A national model for the family justice system



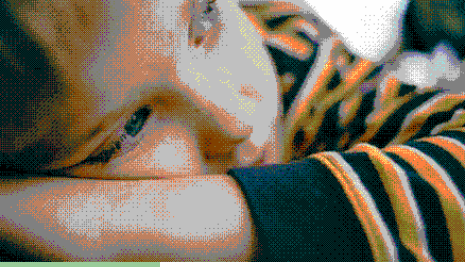
Anthony Douglas  
Chief Executive  
Cafcass



# The views of children

- “The top boss person decided, don’t know his name”
- “I’ve been to more schools than a supply teacher”
- “Just sit there listening to what they’re doing to you”
- “Teacher believed over me”
- “I feel as if I’m being listened to well”
- “I’d turn back the hands of time and change my ways”

Taken from CSCI reports, 2006



## The parent's story

*“When my baby was 6 weeks old, there was a verbally aggressive argument with my partner which resulted in the police being called. Although the baby was asleep in another room, we had both been drinking and it was decided that it was appropriate for her to be taken to a place of safety. The next day I was visited by a social worker who told me the baby was with foster carers. I was not told where she was or how long she would be there. The social worker just said he’d get back to me. He did not. I rang everyday and was either told he was out, was training or he was busy. By now I was distraught. I had not told anyone as I was so overcome with guilt and humiliation. I began to look for some support in the Yellow Pages”*

# Key facts

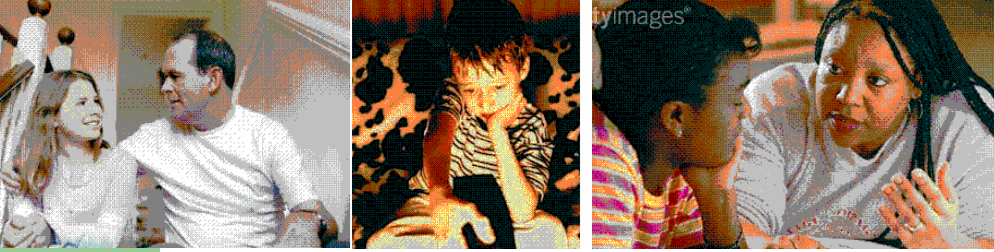
- The original time-table for completion of care proceedings, at the time of the implementation of the 1989 Children Act in 1991, was 12 weeks
- About 50% of care centres complete now within 40 weeks
- The cost of proceedings has risen by over 60% in the last 5 years, to £208 million last year in England and Wales, with a further increase predicted in cost and volume
- Cafcass's 31 care cases increased by 4% last year, to January 2007, with major regional variations
- Thousands of children released for permanency never get there
- Long-term outcomes for the care population remain poor, though some local services and performance are vastly better
- Every child matters, and every day matters (lessons from neurobiology)
- “If we had to wait this long for a tooth extraction or a major operation, we would be on our knees. So why do we do this for emotional pain?”





## What isn't working (one Local Authority's list)

- The responsible judge is never identified at the allocation hearing
- Parties rarely file and serve a statement replying to the facts alleged by the local authority for the CMC
- The local authority rarely files a core assessment within the required time-scale
- No consistency about the drafting of a composite schedule of issues at the Advocates meeting for the CMC
- At the CMC, the issue of full and frank disclosure is not addressed
- Local authority does not file a draft witness template before the pre-hearing review and witnesses are never agreed until the last minute
- Local authority does not always complete the pre-hearing review checklist
- Witnesses are brought to court to be asked only 1 or 2 questions – why not more use of written statements?
- Parties will not indicate which witnesses can be dispensed with
- Listing is often for a 10 day hearing when parties need – why is that the list is so full that we don't start til the afternoon?



## Some of the social worker's tasks

- Undertake initial assessment and write it up
- Undertake core assessment and write it up
- Prepare initial statement, chronology for the allocation hearing and care plan before the CMC – all tasks to be completed much earlier under new proposals
- If the child is on the Child Protection register- prepare a report and attend conference
- Prepare papers for LAC reviews and attend reviews
- At 4 month review, plan for permanence has to be approved
- Observe contact
- Attend court (several times)
- Attend professionals meetings
- Prepare paperwork and attend commissioning panel if additional services are required
- Attend finding of fact/disposal hearing
- Prepare child permanence report (for each child)
- Prepare final statement and care plan (for each child)
- Make detailed diary recordings



## Elements of a national model

- A national model is just a small number of good local models assembled properly and rolled out coherently
- Fast track cases where there is no dispute about causation (various)
- Accelerated discharge from care cases following agreed standards (Liverpool)
- Active management of linked care and placement proceedings (Birmingham)
- Developmental work pre-proceedings to improve the quality of s31 applications from local authorities when there is a clear need (Leeds)
- A readiness for round-table key issues resolution meetings at all stages of proceedings (various) – caution needed (Julia Brophy's research on the limitations)
- Shorter report formats focusing on key issues

# The models of 'dispute resolution' currently used in some places carry risks for children and families

## Challenges of 'dispute resolution'

## Objectives for change to 'seeking solutions'

Research carried out in this country by Liz Trinder has warned that gaining resolution through 'dispute resolution' at the first hearing is risky without the availability of more time and the information from screening checks

A model that allows sufficient time for screening

Evidence from Australia suggests that early returns to court were associated with those cases which had been resolved through time spent with the parties at the first directions appointment alone (leading to additional burdens on the system in the longer term)

A model that gives parties the space to constructively engage

Dispute resolution work is court based and there are significant pressures leading to the parties not being seen separately. This is in breach of the CAFCASS Domestic Violence policy. Courts tend to offer unsafe facilities for seeing children and parties

A model that allows for children and parties to be seen safely

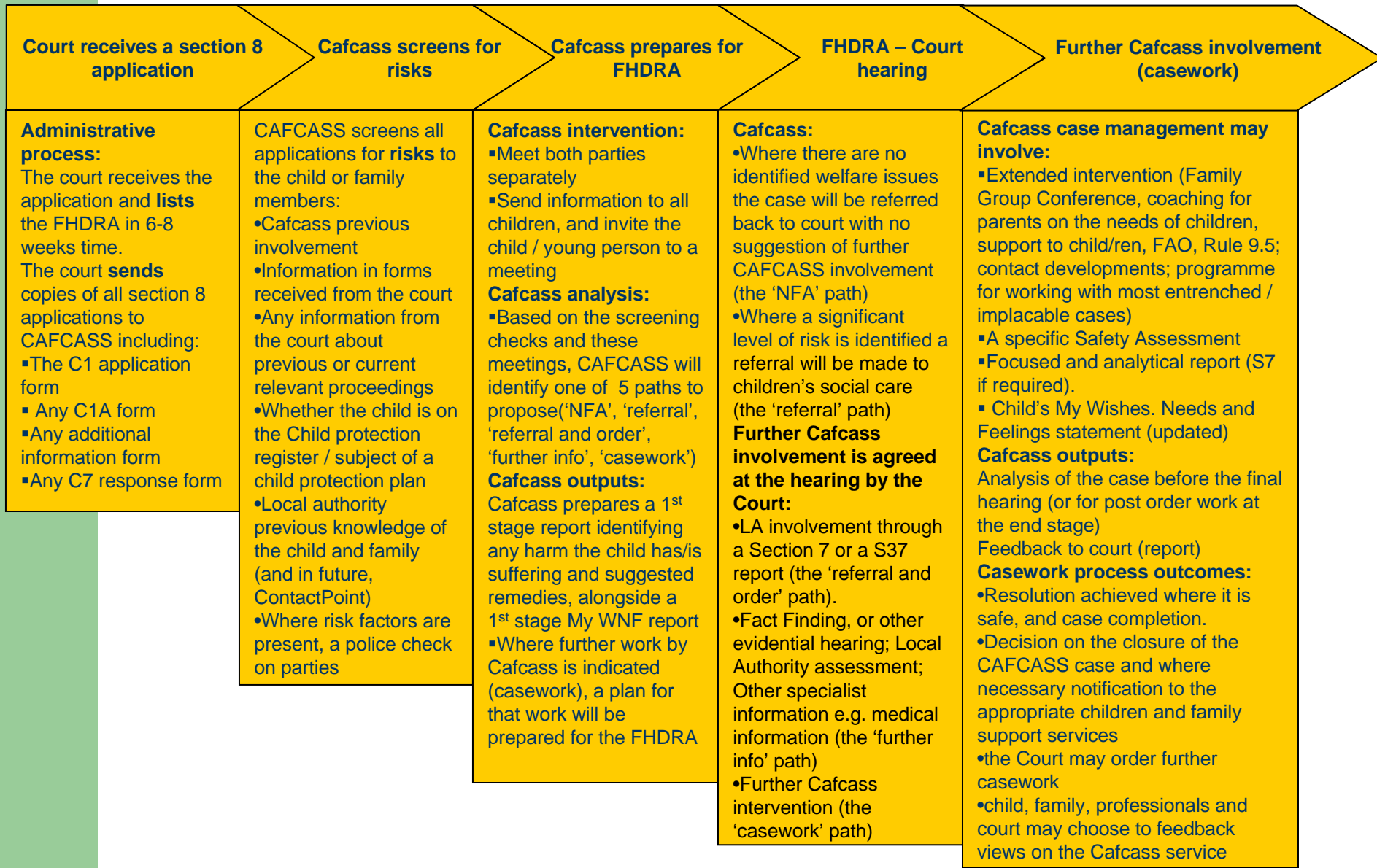
There is insufficient space for the child's voice to be heard. At the present time, if 70% of cases are resolved at DR stage, then children have no voice in at least this proportion of cases

A model that allows for children to be heard

Work done by the Family Justice Council (and echoed by HMICA) into 'risky' parental agreements has identified the pressures to seek agreement as a problem

A model that with checks on professionals to foster a safe agreement rather than any agreement

# Rigorous risk management before FHDRA will filter out cases inappropriate for Cafcass casework



# The potential benefits outweigh the difficulties

- a) Safeguard and promote the welfare of the children
- b) Give advice to any Court about any application made to it in such proceedings
- c) Make provision for the children to be represented in such proceedings, and
- d) Provide information, advice and other support for the children and their families

A model that allows sufficient time for screening

A model that gives parties the space to constructively engage

A model that allows for children and parties to be seen safely

A model that allows for children to be heard

A model that with checks on professionals to foster a safe agreement rather than any agreement

- ✓ **adults seen separately in safe environment, allows for concerns to be voiced**
- ✓ **adults screened where risk factors present**
- ✓ **children more informed and can be involved**
- ✓ **immediate safeguarding concerns can be followed up before court**
- ✓ **potential resolutions can be identified before court**

## Some Cafcass developments to note

- Early intervention in all cases by April 2008, including a small number of duty systems
- Briefer, more analytical reports
- Needs wishes and feelings reports for individual children and young people, and child impact statements
- Handover meetings with IRO's at the end of proceedings
- New National Standards and a major knowledge, learning and practice development programme over the next 3 years – could this be a joint programme with partner agencies?



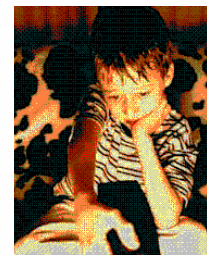


# Lessons from elsewhere and issues for the future

- In Sweden, proceedings are completed within 3 weeks. More funding is made available for prevention and family support (British Embassy, Stockholm) NB IN England, we spend 3 times as much on looked after children as on family support
- Staff turnover in children's services is 3 times higher in the UK (at 27%) than Germany (at 8%): practitioner continuity is important
- Managed systems like youth justice (Youth Justice Board and Youth Offending Teams) may be worth looking at for the family justice system – the wider problems outside the court process need addressing just as much
- For a child or young person, what happens before or after court is as important as what happens in court, yet less focus goes on these – is regular post proceedings review as important as pre-proceedings gate-keeping? What is the best form for this to take?
- Family Justice system culture – the Jaguar CEO meets all new employees, lunches with them, and invites them to test drive a Jag – aiming at quickly gaining a sense of shared values

# Proposals

- a stronger, clearer and more attractive family justice culture for participants at all levels, based on shared values
- a more managed system e.g. Family Justice Boards, as with Youth Offending, Probation etc, with consideration of team working
- More structured support for local authorities pre-proceedings
- a development programme, to learn lessons from other sectors that could be applied, and for practitioners to develop and apply a coherent national model
- Regrettably, no quick fixes – if there were, they'd have been used by now



## 8. NEWS-FOR IMMEDIATE RELEASE

### PRIORITIES FOR VULNERABLE CHILDREN

The Government must get their priorities right and fully fund changes to child care proceedings in courts. The Government's approach of seeking change on the basis that the present costs of proceedings are unnecessarily expensive, is wrong.

That was the overwhelming view of delegates at a two-day London legal conference on 'The future of care proceedings,' Richard White, secretary of the children's welfare charity The Michael Sieff Foundation and joint conference organiser, said today (Wednesday 18 April 2007).

Fears were expressed that the Legal Services Commission's stringent proposals for restricting legal aid are leading to an increasing exodus of lawyers from unremunerative family court work. The most vulnerable families could be deprived of their legal rights because they would not be able to get legal aid when they needed it most. Without experienced child lawyers, necessary changes would not be driven forward.

"There is also an urgent need now to end the shortage of skilled social workers who support vulnerable families. This would ensure savings later, with fewer families ending up in the courts," Richard White said.

He welcomed the statement made at the conference by Harriet Harman, Minister of State at the Department of Constitutional Affairs, of putting the interest of children at the heart of care proceedings.

"But for this to happen, essential services which are at the cutting edge of change, must be adequately funded," he said.

The conference...

The conference at Kingsway Hall Hotel (on 16 and 17 April) was jointly organised by The Michael Sieff Foundation and Children Law UK, the charity bringing together legal professionals and policy makers.

#### **Further information from:**

##### The Michael Sieff Foundation

Norman Woodhouse – phone 01737 355118

Richard White – phone 07788 581930

##### Children Law UK

Glyn Farrow – phone 07973 779609

Monday 16 April 2007 15:17

## Department for Constitutional Affairs (National)

### Children must be at the heart of care proceedings: Harman

The welfare of children must be at the heart of the processes involved in considering whether to take a child into care, Family Justice Minister Harriet Harman will say today.

Ms Harman will be speaking at a conference organised by The Michael Sieff Foundation with the support of Children Law UK to examine the future of childcare proceedings. These organisations work to improve policy and practice for children and young people in need and aim to ensure the best outcome for those involved in legal proceedings.

Ms Harman will say:

"The family courts make extremely difficult and complex decisions. Taking a child into care or placing it into adoption can change a child's life forever. We want to ensure that the interests of children going through care proceedings are at the heart of the system.

"Today's conference is important as it is a chance for people from all the different agencies involved in the child care system, from social work, to local authority social services, the legal profession and the courts, to talk to each other and learn from each other's experiences.

"We need to ensure that all the agencies in the system work together effectively, to ensure that cases are better prepared and avoid unnecessary delay, as we know that the longer the period of uncertainty, the worse it is for the child.

"The Government's Child Care Proceedings Review made it clear that the only way to achieve better and improved outcomes for vulnerable children is by ensuring all agencies co-operate to

establish safe, permanent and timely decisions."

Together with the Department for Education (DfES) and Skills, the Welsh Assembly Government, the judiciary, CAFCASS, CAFCASS Cymru and the Legal Services Commission, the Department for Constitutional Affairs is taking forward the recommendations set out in the review to ensure there is a co-ordinated approach to reducing delay in care proceedings.

Recommendations on how to improve the way the system works were set out in the Review of the Child Care Proceedings System in England and Wales, published by the Department for Constitutional Affairs in May 2006. The majority of the review's immediate recommendations are being implemented through a combination of:

- \* revised statutory guidance to support local authorities in preparing care applications, which will be issued by the DfES under section 7 of the Local Authority Social Services Act 1970;
- \* a new protocol for progressing care cases, which is being developed by the judiciary; and
- \* improved availability of pre-proceedings legal advice to parents being developed by the Legal Services Commission.

Notes to Editors

1. Harriet Harman is speaking at 7pm on Monday 16th April at the Michael Sieff Foundation Conference in Covent Garden.
2. The review of the child care proceedings system in England and Wales was published by the Department for Constitutional Affairs on 18 May 2006. To read the Review visit: [http://www.dca.gov.uk/publications/reports\\_review/childcare\\_ps.pdf](http://www.dca.gov.uk/publications/reports_review/childcare_ps.pdf)

## 9. ORGANISERS' THANKS

The Michael Sieff Foundation and Children Law UK express their thanks to the sponsors McMillan Williams, Solicitors, without whose financial support the conference could not have taken place.

The organisers also wish to thank:  
Conference chairmen – Sir Nicholas Wall and District Judge Crichton

All speakers  
Syndicate group facilitators  
For further information about the organisers, visit:  
[www.michaelsieff-foundation.org.uk](http://www.michaelsieff-foundation.org.uk)  
[www.childrenlawuk.org](http://www.childrenlawuk.org)

## 10. Participants

### Delegate Listing

|                    |  |
|--------------------|--|
| Margaret Adcock    | Social Work Consultant/ Group Facilitator  |
| Tony Baker         | Consultant Child & Adolescent Psychiatrist   |
| Cindy Barnett      | Chair Magistrates Association, Family Court Magistrate   |
| Maddie Blackburn   | Healthcare Commission  |
| Margo Boye-Anawoma | Barrister/Deputy District Judge/Member of Board of CAFCASS   |
| Paul Carr          | District Judge, Editor of Clarke Hall & Morrison   |
| Dr Claire Sturge   | Consultant Child & Adolescent Psychiatrist   |
| Bruce Clark        | Deputy Director within the Children, Young People and Families Directorate of the DfES                   |
| Stephen Cobb       | Barrister, Member of Family Justice Council, Editor Clarke Hall & Morrison                               |
| Graham Cole        | Managing Solicitor - Legal Services Group, Bedfordshire County Council                                   |
| Richard Collins    | Executive Director for Policy  |
| Nic Crichton       | Senior Resident District Judge, Inner London & City Family Proceedings Court                             |
| Deborah Cullen     | Solicitor and Legal Advisor, BAAF  |
| Audrey Damazer     | Chief Clerk, Inner London & City Family Proceedings Court  |
| Anthony Douglas    | Chief Executive, CAFCASS/Chair of BAAF   |
| Barbara Esam       | Trustee of the Michael Sieff Foundation, Solicitor NSPCC   |
| Glyn Farrow        | Chief Executive - Children Law UK  |
| Katherine Gieve    | Partner, Bindmans Solicitors - Group Facilitator, Chair of Children Sub-committee Family Justice Council |
| Danya Glaser       | Consultant Child & Adolescent Psychiatrist /Group Facilitator/Member of Family Justice Council           |
| Liz Goldthorpe     | Solicitor, Chair of SENDIST, Group Facilitator National  |
| Sheridan Greenland | Director, Care Proceedings HMCS/DCA Head of Children & Family Services, IOW                              |
| Prue Grimshaw      | Chair of Trustees- Children Law UK, Family Court Magistrate  |
| Belinda Harding    | Minister of State in the Department for Constitutional Affairs   |
| Harriet Harman     | Trustee of The Michael Sieff Foundation and formerly the Official Solicitor                              |
| Peter Harris       |  |
| Elizabeth Haslam   | Founder of The Michael Sieff Foundation  |
| Mike Hinchliffe    | Deputy Head Legal Services at CAFCASS  |
| Chris Hogan        | Asst Director, Children & Families, London Bor of Hounslow   |

*[Additional delegates to follow]*