

The range and depth of responses to our interim report shows again people's strength of feeling about family justice as well as the commitment of all who work in it. ...Many of our recommendations are unchanged from the interim report. Others have changed as a result of the consultation and our own further work. But the thrust is the same. We see a need for stronger leadership and coordination of the organisations and people involved in family cases and have proposed structural changes designed progressively to achieve this. We aim to strengthen the voice of children. We recommend changes in legislation, regulations and processes in public law aimed at putting the needs of children first and with tighter attribution of responsibility to the different actors in a case. And in private law we recommend a series of changes aimed at helping more people to sort out their affairs for themselves while protecting the interests of their children." David Norgrove, Chair

Note: This digest reproduces in full the Final Recommendations in the report, which appear together on pages 26 to 36. Page numbers refer to the sections in the full report dealing with each area.

The child's voice: pages 45-49

These recommendations aim to ensure that children's interests are truly central to the operation of the family justice system.

- Children and young people should be given age appropriate information to explain what is happening when they are involved in public and private law cases.
- Children and young people should as early as possible in a case be supported to be able to make their views known and older children should be offered a menu of options, to lay out the ways in which they could – if they wish – do this.
- The Family Justice Service should take the lead in developing and disseminating national standards and guidelines on working with children and young people in the system. It should also:
 - ensure consistency of support services, of information for young people and of child-centred practice across the country; and
 - oversee the dissemination of up to date research and analysis of the needs, views and development of children.
- There should be a Young People's Board for the Family Justice Service, with a remit to consider issues in both public and private law and to report directly to the Service on areas of concern or interest.
- The UK Government should closely monitor the effect of the Rights of Children and Young Persons Measure (Wales) 2011.

Family Justice Service: pages 49 - 63

These recommendations outline the proposals connected to the creation of a Family Justice Service.

- A Family Justice Service should be established, sponsored by the Ministry of Justice, with strong ties at both Ministerial and official level with the Department for Education and Welsh Government. As an initial step, an Interim Board should be established, which should be given a clear remit to plan for more radical change on a defined timescale towards a Family Justice Service.
- The Family Justice Service should have strong central and local governance arrangements.
- The roles performed by the Family Justice Council will be needed in any new structure but government will need to consider how they can be exercised in a way that fits with the final design of the Family Justice Service (and Interim Board).
- The Family Justice Service should be responsible for the budgets for court social work services in England, mediation, out of court resolution services and, potentially over time, experts and solicitors for children.
- Charges to local authorities for public law applications and to local authorities and Cafcass for police checks in public and private law cases should be removed

- A duty should be placed on the Family Justice Service to safeguard and promote the welfare of children in performing its functions. An annual report should set out how this duty has been met.
- An integrated IT system should be developed for use in the Family Justice Service and wider family justice agencies. This will need investment. In the meanwhile government should conduct an urgent review of how better use could be made of existing systems.
- The Family Justice Service should develop and monitor national quality standards for system wide processes, based on local knowledge and the experiences of service users.
- The Family Justice Service should coordinate a system wide approach to research and evaluation, supported by a dedicated research budget (amalgamated from the different bodies that currently commission research).
- The Family Justice Service should review and consider how research should be transmitted around the family justice system.

Judicial leadership and culture: pages 63 - 70

These recommendations seek to ensure that there is robust judicial leadership to support the culture change amongst the family judiciary. They are made mostly to the judiciary themselves, not to government.

- A Vice President of the Family Division should support the President of the Family Division in his leadership role, monitoring performance across the family judiciary.
- Family Division Liaison Judges should be renamed Family Presiding Judges, reporting to the Vice President of the Family Division on performance issues in their circuit.
- Judges with leadership responsibilities should have clearer management responsibilities. There should be stronger job descriptions, detailing clear expectations of management responsibilities and inter-agency working.
- HMCTS should make information on key indicators for courts and areas available to the Family Justice Service. Information on key indicators for individual judges should be made available to those judges as well as judges with leadership responsibilities. The judiciary should agree key indicators.
- Designated Family Judges should have leadership responsibility for all courts within their area. They will need to work closely with Justices' Clerks, family bench chairmen and judicial colleagues.
- The judiciary should aim to ensure judicial continuity in all family cases.
- The judiciary should ensure a condition to undertake family work includes willingness to adapt work patterns to be able to offer continuity.
- The President of the Family Division should consider what steps should be taken to allow judicial continuity to be achieved in the High Court.

- In Family Proceedings Courts judicial continuity should if possible be provided by all members of the bench and the legal adviser. If this is not possible, the same bench chair, a bench member and a legal adviser should provide continuity.
- Judges and magistrates should be enabled and encouraged to specialise in family matters.
- The Judicial Appointments Commission should consider willingness to specialise in family matters in making appointments to the family judiciary.
- The Judicial Office should review the restriction on magistrate sitting days.

Case management: pages 71 - 72

- HMCTS and the judiciary should review and plan how to deliver consistently effective case management in the courts.

The courts: pages 72 - 79

These recommendations aim to ensure that the courts are as efficient and user friendly as possible.

- A single family court, with a single point of entry, should replace the current three tiers of court. All levels of family judiciary (including magistrates) should sit in the family court and work should be allocated according to case complexity.
- The roles of District Judges working in the family court should be aligned.
- There should be flexibility for legal advisers to conduct work to support judges across the family court.
- The Family Division of the High Court should remain, with exclusive jurisdiction over cases involving the inherent jurisdiction and international work that has been prescribed by the President of the Family Division as being reserved to it.
- All other matters should be heard in the single family court, with High Court judges sitting in that court to hear the most complex cases and issues.
- HMCTS and the judiciary should ensure routine hearings use telephone or video technology wherever appropriate.
- HMCTS and the judiciary should consider the use of alternative locations for hearings that do not need to take place in a court room.
- HMCTS should ensure court buildings are as family friendly as possible.
- HMCTS should review the estate for family courts to reduce the number of buildings in which cases are heard, to promote efficiency, judicial continuity and specialisation. Exceptions should be made for rural areas where transport is poor.
- HMCTS and the judiciary should review the operation and arrangement of the family courts in London.

Workforce: pages 79 - 89

These recommendations aim to ensure that the people who work in the family justice system have the skills and knowledge they need.

- The Family Justice Service should develop a workforce strategy.
- The Family Justice Service should develop an agreed set of core skills and knowledge for family justice.
- The Family Justice Service should introduce an inter-disciplinary family justice induction course.

- Professional bodies should review continuing professional development schemes to ensure their adequacy and suitability in relation to family justice.
- The Family Justice Service should develop annual inter-disciplinary training priorities for the workforce to guide the content of inter-disciplinary training locally.
- The Family Justice Service should establish a pilot in which judges and magistrates would learn the outcomes for children and families on whom they have adjudicated.
- There should be a system of case reviews of process to help establish reflective practice in the family justice system.
- The Judicial College should review training delivery to determine the merits of providing a core judicial skills course for all new members of the judiciary.
- The Judicial College should develop training to assist senior judges with carrying out their leadership responsibilities.
- The Judicial College should ensure judicial training for family work includes greater emphasis on child development and case management.
- The Judicial College should ensure induction training for the family judiciary includes visits to relevant agencies involved in the system.
- There should be an expectation that all members of the local judiciary including the lay bench and legal advisers involved in family work should join together in training activities.
- The President's annual conference should be followed by circuit level meetings between Family Presiding Judges and the senior judiciary in their area to discuss the delivery of family business.
- Designated Family Judges should undertake regular meetings with the judges for whom they have leadership responsibility.
- Judges should be encouraged and given the skills to provide each other with greater peer support.
- The Judicial College should ensure induction training for new family magistrates includes greater focus on case management, child development and visits to other agencies involved in the system.
- The Judicial College should ensure legal advisers receive focused training on case management.
- Solicitors' professional bodies, working with representative groups for expert witnesses, should provide training opportunities for solicitors on how to draft effective instructions for expert evidence.
- The College of Social Work and Care Council for Wales should consider issuing guidance to employers and higher education institutions on the teaching of court skills, including how to provide high quality assessments, that set out a clear narrative of the child's story.
- The College of Social Work and Care Council for Wales should consider with employers whether initial social work and post qualifying training includes enough focus on child development, for those social workers who wish to go on to work with children.
- The Children's Improvement Board should consider what training and work experience is appropriate for Directors of Children's Services who have not practised as social workers.

Public law

The role of the court: pages 94 - 101

These recommendations seek to refocus the court on the core issues of the care plan.

- Courts must continue to play a central role in public law in England and Wales.
- Courts should refocus on the core issues of whether the child is to live with parents, other family or friends, or be removed to the care of the local authority.
- When determining whether a care order is in a child's best interests the court will not normally need to scrutinise the full detail of a local authority care plan for a child. Instead the court should consider only the core or essential components of a child's plan. We propose that these are:
 - planned return of the child to their family;
 - a plan to place (or explore placing) a child with family or friends;
 - alternative care arrangements; and
 - contact with birth family to the extent of deciding whether that should be regular, limited or none.
- Government should consult on whether section 34 of the Children Act 1989 should be amended to promote reasonable contact with siblings, and to allow siblings to apply for contact orders without leave of the court.

The relationship between courts and local authorities: pages 101 - 103

These recommendations are intended to improve the relationship between local authorities and courts so that the different components of the system operate better together.

- There should be a dialogue both nationally and locally between the judiciary and local authorities. The Family Justice Service should facilitate this. Designated Family Judges and the Director of Children's Services / Director of Social Services should meet regularly to discuss issues.
- Local authorities and the judiciary need to debate the variability of local authority practice in relation to threshold decisions and when they trigger care applications. This again requires discussion at national and local level. Government should support these discussions through a continuing programme of analysis and research.
- The revised Working Together and relevant Welsh guidance should emphasise the importance of the child's timescales and the appropriate use of proceedings in planning for children and in structured child protection activity.

Case management: pages 103 - 112

These recommendations seek to promote and improve robust judicial case management. They are intended to tackle delay by time limiting cases and reforming process.

- Different courts take different approaches to case management in public law. These need corraling, researching and promulgating by the judiciary to share best practice and ensure consistency.
- Government should legislate to provide a power to set a time limit on care proceedings. The limit should be specified in secondary legislation to provide flexibility. There should be transitional provisions.

- The time limit for the completion of care and supervision proceedings should be set at six months.
- To achieve the time limit would be the responsibility of the trial judge. Extensions to the six month time limit will be allowed only by exception. A trial judge proposing to extend a case beyond six months would need to seek the agreement of the Designated Family Judge / Family Presiding Judge as appropriate.
- Judges must set firm timetables for cases. Timetabling and case management decisions must be child focused and made with explicit reference to the child's needs and timescales. There is a strong case for this responsibility to be recognised explicitly in primary legislation.
- The Public Law Outline provides a solid basis for child focused case management. Inconsistency in its implementation across courts is not acceptable and we encourage the senior judiciary to insist that all courts follow it.
- The Public Law Outline will need to be remodelled to accommodate the implementation of time limits in cases. The judiciary should consult widely with all stakeholders to inform this remodelling. New approaches should be tested as part of this process.
- The requirement to renew interim care orders after eight weeks and then every four weeks should be amended. Judges should be allowed discretion to grant interim orders for the time they see fit subject to a maximum of six months and not beyond the time limit for the case. The court's power to renew should be tied to their power to extend proceedings beyond the time limit.
- The requirement that local authority adoption panels should consider the suitability for adoption of a child whose case is before the court should be removed.

Local authority practice: pages 112 - 117

These recommendations focus on improving the quality of local authority social services and their engagement in proceedings.

- The judiciary led by the President's office and local authorities via their representative bodies should urgently consider what standards should be set for court documentation, and should circulate examples of best practice.
- We encourage use of the Letter Before Proceedings. We recommend that its operation be reviewed once full research is available about its impact.
- Local authorities should review the operation of their Independent Reviewing Officer service to ensure that it is effective. In particular they should ensure that they are adhering to guidance regarding case loads.
- The Director of Children's Services / Director of Social Services and Lead Member for Children should receive regular reports from the Independent Reviewing Officer on the work undertaken and its outcomes. Local Safeguarding Children Boards should consider such reports.
- There need to be effective links between the courts and Independent Reviewing Officer and the working relationship between the guardian and the Independent Reviewing Officer needs to be stronger.

Expert witnesses: pages 117 - 126

These recommendations intend to reduce the reliance on expert witnesses and improve their supply and quality.

- Primary legislation should reinforce that in commissioning an expert's report regard must be had to the impact of delay on the welfare of the child. It should also assert that expert testimony should be commissioned only where necessary to resolve the case. The Family Procedure Rules would need to be amended to reflect the primary legislation.
- The court should seek material from an expert witness only when that information is not available, and cannot properly be made available, from parties already involved. Independent social workers should be employed only exceptionally.
- Research should be commissioned to examine the value of residential assessments of parents.
- Judges should direct the process of agreeing and instructing expert witnesses as a fundamental part of their responsibility for case management. Judges should set out in the order giving permission for the commissioning of the expert witness the questions on which the expert witness should focus.
- The Family Justice Service should take responsibility for work with the Department for Health and others as necessary to improve the quality and supply of expert witness services. This will involve piloting new ideas, sharing best practice and reviewing quality.
- The Legal Services Commission should routinely collate data on experts per case, type of expert, time taken, cost and any other relevant factor. This should be gathered by court and area.
- We recommend that studies of the expert witness reports supplied by various professions be commissioned by the Family Justice Service.
- Agreed quality standards for expert witnesses in the family courts should be developed by the Family Justice Service.
- A further pilot of multi-disciplinary expert witness teams should be taken forward, building on lessons from the original pilot.
- The Family Justice Service should review the mechanisms available to remunerate expert witnesses, and should in due course reconsider whether experts could be paid directly.

Representation of children: pages 126 - 129

These recommendations are intended to promote the value and effective operation of the tandem model of children's representation.

- The tandem model should be retained with resources carefully prioritised and allocated.
- The merit of using guardians pre-proceedings needs to be considered further.
- The merit of developing an in-house tandem model needs to be considered further. The effects on the availability of solicitors locally to represent parents should be a particular factor.

Alternatives to conventional court proceedings: pages 129 - 132

These recommendations encourage the development of approaches and programmes that better support families while avoiding or reducing the need for distressing and costly court cases.

- The benefits of Family Group Conferences should be more widely recognised and their use should be considered before proceedings. More research is needed on how they can best be used, their benefits and the cost.
- A pilot on the use of formal mediation approaches in public law proceedings should be established.

- The Family Drug and Alcohol Court in Inner London Family Proceedings Court shows considerable promise. There should be further limited roll out to continue to develop the evidence base.
- Proposals should be developed to pilot new approaches to supporting parents through and after proceedings.

Private law

Making parental responsibility work: pages 134 - 150

These recommendations are intended to enable parents to reach agreements following separation, while ensuring that the child's welfare remains paramount.

- Government should find means of strengthening the importance of a good understanding of parental responsibility in information it gives to parents.
 - No legislation should be introduced that creates or risks creating the perception that there is a parental right to substantially shared or equal time for both parents.
 - The need for grandparents to apply for leave of the court before making an application for contact should remain.
 - Parents should be encouraged to develop a Parenting Agreement to set out arrangements for the care of their children post separation.
 - Government and the judiciary should consider how a signed Parenting Agreement could have evidential weight in any subsequent parental dispute.
 - Government should develop a child arrangements order, which would set out arrangements for the upbringing of a child when court determination of disputes related to the care of children is required.
 - Government should repeal the provision for residence and contact orders in the Children Act 1989.
 - Prohibited steps orders and specific issue orders should be retained for discrete issues where a child arrangements order is not appropriate.
 - The new child arrangements order should be available to fathers without parental responsibility, as well as those who already hold parental responsibility, and to wider family members with the permission of the court.
 - Where a father would require parental responsibility to fulfil the requirement of care as set out in the order, the court would also make a parental responsibility order.
 - Where the order requires wider family members to be able to exercise parental responsibility, the court would make an order that that person should have parental responsibility for the duration of the order.
 - The facility to remove the child from the jurisdiction of England and Wales for up to 28 days without the agreement of all others with parental responsibility or a court order should remain.
 - The provision restricting those with parental responsibility from changing the child's surname without the agreement of all others with parental responsibility or a court order should remain.
- ##### **A coherent process for dispute resolution: pages 150 - 172**
- These recommendations are intended to enable people to resolve their disputes safely outside of court, wherever possible.
- Government should establish an online information hub and

- helpline to give information and support for couples to help them resolve issues following divorce or separation outside court.
- 'Alternative dispute resolution' should be rebranded as 'Dispute Resolution Services', in order to minimise a deterrent to its use.
 - Where intervention is necessary, separating parents should be expected to attend a session with a mediator, trained and accredited to a high professional standard, who should:
 - assess the most appropriate intervention, including mediation and collaborative law, or whether the risks of domestic violence, imbalance between the parties or child protection issues require immediate referral to the family court; and
 - provide information on local Dispute Resolution Services and how they could support parties to resolve disputes.
 - The mediator tasked with the initial assessment (Mediation Information and Assessment Meeting) would need to be the key practitioner until an application to court is made.
 - The regime would allow for emergency applications to court and the exemptions should be as in the Pre-Application Protocol.
 - Those parents who were still unable to agree should next attend a Separated Parents Information Programme and thereafter if necessary mediation or other dispute resolution service.
 - Attendance at a Mediation Information and Assessment Meeting and Separated Parent Information Programme should be required of anyone wishing to make a court application. This cannot be required, but should be expected, of respondents.
 - Judges should retain the power to order parties to attend a mediation information session and Separated Parents Information Programmes, and may make cost orders where it is felt that one party has behaved unreasonably.
 - Where agreement could not be reached, having been given a certificate by the mediator, one or both of the parties would be able to apply to court.
 - Mediators should at least meet the current requirements set by the Legal Services Commission. These standards should themselves be reviewed in the light of the new responsibilities being laid on mediators. Mediators who do not currently meet those standards should be given a specified period in which to achieve them.
 - Government should closely watch and review the progress of the Family Mediation Council to assess its effectiveness in maintaining and reinforcing high standards. The Family Mediation Council should if necessary be replaced by an independent regulator.
 - The Family Justice Service should ensure for cases involving children that safeguarding checks are completed at the point of entry into the court system.
 - HMCTS and the judiciary should establish a track system according to the complexity of the case. The simple track should determine narrow issues where tailored case management rules and principles would apply.
 - The First Hearing Dispute Resolution Appointment should be retained. Parenting Agreements could also be helpful at this stage. Where further court involvement is required after this, the judge should allocate the case to either the simple or complex track according to complexity.
 - The judge who is allocated to hear the case after a First Hearing Dispute Resolution Appointment must remain the judge for that case.
 - Children and young people should be given the opportunity to have their voices heard in cases that are about them, where they wish it.
 - The government and the judiciary should actively consider how children and vulnerable witnesses may be protected when giving evidence in family proceedings.
 - Where an order is breached within the first year, the case should go straight back to court to the same judge to resolve the matter swiftly. The current enforcement powers should be available. The case should be heard within a fixed number of days, with the dispute resolved at a single hearing. If an order is breached after 12 months, the parties should be expected to return to Dispute Resolution Services before returning to court to seek enforcement.
 - There should be no link of any kind between contact and maintenance
- Divorce and financial arrangements: pages 172 - 178**
- These recommendations are intended to enable divorcing couples to dissolve their marriage efficiently and, wherever possible, to reach an agreement on financial arrangements without using the court.
- The process for initiating divorce should begin with the online hub and should be dealt with administratively by the courts, unless the divorce is disputed.
 - People in dispute about money or property should be expected to access the information hub and should be required to be assessed for mediation.
 - Where possible all issues in dispute following separation should be considered together whether in all issues mediation or consolidated court hearings. HMCTS and the judiciary should consider how this might be achieved in courts. Care should be taken to avoid extra delay particularly in relation to children.
 - Government should establish a separate review of financial orders to include examination of the law.
 - The Ministry of Justice and the Legal Services Commission should carefully monitor the impact of legal aid reforms. The supply of properly qualified family lawyers is vital to the protection of children.

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