



PRESIDENT OF THE
FAMILY DIVISION

INTRODUCTION FOR THE SUMMARY OF THE FAMILY COURTS REPORTS
2007/2008

This is the third year of reports from the family jurisdiction of the County Court, written jointly by the Designated Family Judges (DFJs) and the Area or Regional Directors. They include statistics relating to the business of each Care Centre and its outlying courts. Each DFJ has been asked to set out a true and fair view of the business of the court over the year ending 31st March 2008.

This year I have reviewed the format and style of the report and have introduced use of a simpler and more straightforward form in which key information can be easily identified. I also foresee that this document will provide a good platform for forward planning.

The overall picture revealed in the reports this year is that the different elements of the Family Justice System are working closely and tirelessly to make the most of an under-funded and under-resourced system. As ever, I am impressed by the energy and dedication of all those involved and particular thanks should be extended to the family judges, court staff, Family Justice Directorate, Regional and Area Directors and all the family justice agencies which make up the Family Justice System.

Statistics/Performance

In this year's reports the spread of statistics required has been reduced to 4 areas; Private Family Law, Public Family Law, Adoption and Ancillary Relief. This enables a simple 'snapshot' assessment of an Area's performance. I am grateful for the very considerable efforts of those who have worked to produce this performance data.

As in previous years, there is widespread concern among DFJs that the PSA4 target is not being achieved and that this statistic casts an unhealthy shadow over the achievements and performance of the care centre. Although I recognise the importance of maintaining this benchmark, it is in my view the 'Timetable for the Child', an adjustable schedule tailored to suit the individual and changing requirements of each case introduced as part of the Public Law Outline from 1 April

this year, which should be treated as the yardstick of effective performance. Its introduction will serve to highlight that those cases exceeding the 40 week 'target' often do so with good reason, e.g. so as to allow staged rehabilitation by placement with a parent or birth family member.

I am disappointed that the authors of these reports were not in a position to comment on the performance of the Family Proceedings Courts (FPCs) because of delays in the Family Man SUPS programme. However, I understand the data essential to the task will be available for next year's reports on the HMCS Performance.

Resources

One of my main concerns is the capacity in the Magistrates' Courts to take on an increased workload of family cases. The draft Allocations Guidance issued by me in 2006 and the proposed new Allocation and Transfer of Proceedings Order require that, wherever the capacity and the ability exists in the FPCs, Private Law work should be transferred to be dealt with there. Similarly, the PLO promotes the use of the FPC as an appropriate forum for straightforward public law cases. If FPCs are to be properly engaged in this way, there is a pressing need for legal advisors who specialise in family work. The current approach is that family work almost invariably cedes precedence to the legal advisor's commitment to the criminal courts. This fuels a common complaint from family magistrates that there are insufficient family cases for them to achieve their minimum number of sittings.

It is unfortunate that, prior to the introduction of the PLO, no scoping study was undertaken to assess the capacity in the FPCs. This need is now recognised by the new Chief Executive Officer in order to reveal the varying levels of capacity in the FPCs and to encourage different and collective approaches to listing & patterning as a result of shared good practice.

In my summary last year, I stressed that the appointment of Case Progression Officers was critical in order to improve throughput and avoid adjournments. I was pleased to read that such appointments have been made in most Care Centres and that their effectiveness has already been recognised.

I also record with gratitude the increase in the dedicated administrative support now being provided to DFJ's. However, in some areas this support has been 'diluted' by increased pressure on resources as a result of other roles and functions being added to the job descriptions of the individuals concerned.

Over the last 12 months there has been a reported increase in the number of unrepresented litigants. This has resulted in fewer negotiated settlements and in

many cases longer hearings, which has a subsequent impact on listing. It also increases the complexity and number of queries dealt with by staff at the family counter.

This year I have completed a review of all Family Authorisations in order to simplify the ticketing system to tickets in Private Family Law and Public Family law as recommended by the Judicial Resources Review. This will ensure that only those Judges ticketed to hear the work receive the appropriate training and maintain their expertise through regular sittings. It also helps to ensure that the right levels of judicial resources are available in the right areas. I wish to record my gratitude to those Judges and Staff who assisted in this long and intricate exercise.

CAFCASS

In general, there is a good relationship between the DFJs and the hard working staff of CAFCASS. There continues to be widespread disparity in the availability of local resources and the level of services provided. For example, the provision of Section 7 reports ranges from 12 weeks in some areas, to 28 in others. In areas where resources are already stretched, Extended Dispute Resolution Schemes have necessarily been delayed. However, I am aware that CAFCASS are in the process of restructuring and are re-examining the distribution of their staff and resources to ensure that a consistent efficient service can be achieved.

Public Family Law

Full national implementation of the Public Law Outline commenced from the 1st April 2008. Prior to this date, the PLO had been running in 10 initiative courts throughout England and Wales. On the whole, the principles of the PLO have been well received and there is a high expectation that in time it will increase the quality and efficiency of child care proceedings. In a number of initiative areas, DFJs have reported that the early identification of issues has significantly reduced the length of hearings and the necessity for final hearings. The change in practice of delaying listing of the Final Hearing until the Issues Resolution Hearing (IRH) is a significant change in culture and will take a while to be fully adopted. In areas where this has already happened, final hearings can be listed within 8-10 weeks of the IRH and rarely exceed 3 days. I look forward to reporting fully on the first year of the PLO in next year's summary.

I must again record my thanks for all those involved in the formulation, training and implementation of the Public Law Outline against a tight deadline for implementation.

Private family law

Nationally, there continues to be a high level of settlement achieved at the First Hearing under the provisions of the Private Law Programme. I am working closely with the Chief Executive of CAFCASS to look at possible changes to the Private Law Programme so as to incorporate some of the elements proposed under the Cafcass Private Law Pathway scheme. It is intended that the revised model should be drafted and published in time for implementation in April 2009.

Domestic Violence

The implementation of the amendments to the Family Law Act 1996, which came into effect in July 2007 under the Domestic Violence, Crimes and Victims Act 2004, removed the power of the family courts to impose powers of arrest for non-molestation orders, and this has been a source of widespread concern. There has been a significant reduction in the number of applications being made for protective orders under the FLA and it is an area which requires to be kept under review. Research entitled 'Early Evaluation of the Domestic Violence, Crime and Victims Act 2004' carried out on behalf of the Ministry will be considered by the Family Criminal Interface Committee and Family Justice Council.

Adoption

Regrettably there is still a lack of the necessary IT support for the inputting and recording of Adoption information, with the result that orders and statistics still require to be prepared manually. This will continue to be the case until the rollout of the SUPS programme nationally.

Local Structures and Management

The reports point to a vast improvement in the dialogue and understanding between the court and the other agencies of the Family Justice System. Additionally the PLO has provided significant opportunity to improve inter-agency working. I have been particularly impressed by the success of local implementation groups, some of which have remained in place post-implementation to deal with any further initiatives which may arise.

Accommodation/Estates

The physical conditions in some family courts are still of serious concern, being neither suitable nor appropriate to house family hearings. Many areas are trying to maximise their existing resources and ensure better utilisation of the estate through a programme of integration of magistrates and county courts.

Legal Aid

The overall consensus from the DFJs is that there is a general feeling of despondency in relation to the availability of publicly funded family practitioners, and that although new contracts have been accepted, many firms are turning away or cherry picking cases. The absence of adequate payment for travelling will become increasingly problematic as the geographical areas which solicitors must cover expand. Experienced practitioners are vital for the effective working of the PLO, the engine room for which is the Advocates' Meeting, where robust, focused decisions have to be taken in identifying and reducing the real issues it is necessary for the court to resolve in the interests of the child.

Future progress

Having achieved the piloting of the Public Law Outline, the revision of the Allocation Order so as to encourage the passing of work to the FPCs, the Ticketing Review and the move to co-location of courts wherever possible, it is time for a period of "bedding down" on lines already set. Next year will present the chance for judiciary and administration to work further together to achieving improved procedures against a background of limited resources.

I can only repeat my gratitude to all those judges and staff whose commitment and enthusiasm for this area of work continues to render the contribution of the courts to the Family Justice System.

Mark Potter.