

FAMILY JUSTICE COUNCIL EVENT
Parents Forum

9th October 2007, 5.00 – 7.00pm

Grand Committee Room, House of Commons

FAMILY JUSTICE COUNCIL MEMBERS:

Her Honour Judge Newton

Lord Justice Thorpe, Deputy Chair of the Family Justice Council

District Judge Nicholas Crichton

Beverley Sayers

Sheridan Greenland, HMCS

Stephen Cobb QC

Mary MacLeod, Chief Executive, Family and Parenting Institute

Elaine Laken, Justices' Clerk, Avon & Somerset

ALSO ATTENDING:

Alex Clark, Secretary to the Family Justice Council

Julian Owen, Family Justice Council

Joanna Wilkinson, Family Justice Council

Catherine Boyd, Family and Parenting Institute

Sally Taylor, Family and Parenting Institute

ATTENDEES

1. David Stockdale, Development Manager, Young Voice (and Regional Co-ordinator of Anti-Bullying Alliance)
2. Adrienne Burgess, Fathers Direct
3. Karen Woodall, Director, The Centre for Separated Families
4. Hilary Chamberlain, Policy Manager, Parentline Plus
5. Dr Samantha Callan, Research Consultant, Care for the Family
6. Cheryl Dobson, Centre for Social Justice
7. Harvey Gallagher, Director of Marketing & Communications, British Association for Adoption & Fostering
8. Sarah Rush, Head of Advice and Campaigns, Contact a Family
9. Olivia Montuschi, Donor Conception Network
10. Charles Kenyon, trustee, Families Need Fathers
11. John Baker, Chairman, Families Need Fathers
12. Lisa Cohen, JUMP (Jewish Unity for Multiple Parenting)
13. Claire Tyler, Chief Executive, Relate
14. Paul Rubert, Nominations Officer, Equal Parenting Alliance
15. Peter Harris, Chairman, Grandparents' Association
16. Lynn Bean/Diana Whitworth, Co-Directors, Grandparents Plus
17. Lyn Bugarski, Barnardo's Adoption Agency
18. Trevor Jones, Litten Tree Group
19. Maggie Jones, Chief Executive, National Council of Voluntary Child Care Organisations
20. Margaret Pendlebery, Chief Executive Officer, National Family Mediation
21. Anthony Douglas, Chief Executive, Cafcass
22. Christine Smart, Director of Children's Rights, Cafcass
23. Yvonne Key, Chief Executive, National Association of Child Contact Centres
24. Rose De Paeztron, Organisation Head of Strategic Development, Working Together with Parents Network
25. Sue Burrige, Policy Adviser (Marriage and Family), The Archbishops' Council
26. Joan Hunt, Senior Research Fellow, Oxford Centre for Family Law and Policy, University of Oxford
27. John Bannon, Environmental Law Centre, Merseyside
28. Jan Fry, Deputy Chief Executive, Parentline Plus
29. Nicola Harwin, Chief Executive, Women's Aid
30. Amandeep Hothi, National Children and Young Person's Officer, Women's Aid
31. Nichola Sharp, Policy Manager, Refuge
32. Andrea Hopkins, Legal Adviser, Family Rights Group
33. Shaun O'Connell, FLINT
34. Caroline Abrahams, Programme Director, Local Government Association

35. Helen Munt, Office Manager, National Association for People Abused in Childhood
36. Chris Hawkins, Child and Parent Alliance
37. Matt Huggins, Public Relations Consultant, Adolescent and Children's Trust
38. Kevin Lowe, TSA
39. Renuka Jeyarajah-Dent, Director of Operations and Deputy CEO, Coram Family
40. Sasha Watson, parent
41. Penny Mansfield, Chief Executive, One Plus One
42. Katherine Gieve, Bindman & Partners Solicitors
43. Howard Jones, Director of Services, Family Welfare Association

Speech by Lord Justice Thorpe

1. Good afternoon and welcome to you all. It is good to see some familiar faces, but, even better to see more unfamiliar ones. I will be brief. Today is more about us listening to you than you listening to us. You have been invited here today to help the Family Justice Council identify how best it can engage with parents, grandparents and other family members. The Council wishes to establish a meaningful and constructive dialogue with parents, organisations working with parents and groups representing the views of parents.
2. It is axiomatic that, in the family justice system, the interests of children are paramount. That said, the courts and the professionals working in the system do not view children in a vacuum. Children must be seen in the context of their families and the nature of the relationships that exist within them. Clearly, parents play a hugely important role in the lives of their children and they are an essential part of the equation.
3. It strikes me that some commentators on family justice are effectively saying that the interests of children and parents are, somehow, fundamentally opposed. They seem to suggest that one must either be in the pro-children or the pro-parent camp. I feel that this analysis is too reductive and, frankly, depressing.
4. Of course, in some cases there are tensions between the interests of children and their parents. For example, in public law cases the courts must sometimes take the difficult decision that it is better for the children to be taken into care than to remain with their parents. We should remember, however, that the great majority of families and parents are not so dysfunctional as to justify this drastic intervention. Almost all parents are capable of providing better care for their children than the state can offer.

5. The Council, therefore, is not in the business of being 'pro-children' and 'anti-parent' or 'pro-parent' and 'anti-children'. Instead, it seeks to promote a holistic and interdisciplinary approach to the issues that come before the family courts.
6. One of the challenges facing the Council in seeking to take account of the views and experiences of parents is the sheer number and range of disparate groups out there purporting to represent the views of parents. To whose voices should we listen? Some groups are little more than one man, or woman, bands. Others seem to have only a virtual existence on the internet. Yet others announce themselves with great fanfare only to lapse quickly into silence and disappear.
7. Part of this complex picture reflects the diversity of our society, but, who can speak on behalf of black parents? Who speaks for asian parents? Who speaks for Muslim parents? How should we sort the wheat from the chaff? I look forward to hearing some suggestions from you later today.
8. The elephant in the room is, of course, gender. Gender politics has bedevilled the discussion of policy on child contact in private law cases. I have watched with dismay as groups representing fathers, on one side, and groups representing mothers, on the other, have spent years fighting an increasingly bitter and, it has to be said, ideological battle. Research evidence, statistics and anecdotes based on personal experience have all been pressed into service to advance the arguments of each side. Appalling stories of mothers deliberately frustrating contact, out of spite and malice, are countered by tragic stories of children killed by their fathers during contact visits.

9. Much of what is said by both sides in this dialogue of the deaf is important and deserves serious consideration. Unfortunately, positions have become so polarised and entrenched that the whole debate has become sterile. Some groups on the fathers' side of the divide argue, with absolute conviction, that the system is inherently biased against them. And yet, some groups on the mothers' side believe, with equal certainty, that the system is institutionally biased against them. Can they both be right? Logic would suggest not. Perhaps they are both wrong?

10. It seems to me that in the increasingly post-ideological age in which we live, a debate so characterised by such polarised and entrenched positions is looking tired and anachronistic. I feel that placing the interests of mothers and fathers in perpetual opposition is as misconceived as placing the interests of parents and children in fundamental opposition. I hope, with some fervour, that the time has come to move on.

11. The Council is not a creature of gender politics. It is not pro-father or anti-mother. It is not pro-mother or anti-father. It seeks to strike a balance between the warring factions. I look forward to your views on how the Council should deal with the gender divide.

12. Having touched on some of the challenges, I will now turn to some of the means by which the Council might engage with parents that have been proposed.

13. As some of you will know, a number of the local Family Justice Councils have set up user sub-committees on which are represented a variety of parents groups. Feedback from the local Councils suggests that this approach can be effective where the parents' groups represented locally are prepared to work together. Much depends on the local representatives and their willingness to engage constructively with other groups.

14. Could this approach work on a national level? Could a user sub-committee of the national Family Justice Council find a useful role? If such a group were to be established, it would be desirable to see it feed parents' views into the wider work of the Council and take forward an agreed programme of work on issues of interest to parents. Is this a realistic prospect?
15. Another approach to capturing the views of parents would be to commission opinion surveys and to use focus groups. Experience suggests that these methods tend to work best when the issues are clearly defined. I am sure that there are a number of you in this room who are well versed in using surveys and focus groups and we would invite you to share your experience with us.
16. The Council would very much like to build on today's meeting. Would it, for example, be worthwhile making this an annual event? Perhaps we will be in a better position to judge in a couple of hours' time? Now that we have got you all here in one room at one time, it would be a shame to lose you.
17. Other options for involving parents in the Council's work include dedicating a slot to parents' issues at one of the Council quarterly meetings every year. This would provide an opportunity for parents' groups to bring a range of issues to the attention of the national Council.
18. I would also like to ask whether the Council should seek to establish a permanent e-mail group for parents. This could be useful in seeking parental perspectives on the Government consultation papers that the Council is asked to consider. An e-mail group would also afford a means of seeking initial views on any urgent issues. Would you find this useful?

19. The Council places high importance on the development of evidence based policy. It has a limited budget to commission its own research but it has also been able to encourage other organisations to fund much needed projects. The Council feels that the experience of parents using the family justice system is an under-researched area. Last year, Mary MacLeod was instrumental in making the case to the Nuffield Foundation to fund a literature review of research studies into parents' views on the system to bring together what is already known. This review will be published shortly.

20. The Council would welcome any proposals that you may have for research projects. As I said, we have limited resources but the Council has had some success in persuading others, inside and outside Government, with deeper pockets to reach into those pockets.

21. Before I finish, I would like to say a few words of thanks to Mary MacLeod. Mary has been the parents' representative on the Family Justice Council since its establishment in 2004. She has held one of the most challenging briefs on the Council and, I know, has striven to demonstrate even-handedness in an area fraught with tensions over gender. As many of you will know, Mary is stepping down and a recruitment exercise to identify her successor is currently under way. Perhaps that successor is sitting in this room? We should find out towards the end of next month.

22. It was Mary's idea to hold this event and she has taken the lead in organising it, for which, we are all grateful. Mary has been a staunch advocate for increasing the input of parents to the work of the Council and I share her hope that today's event will provide her successor with a legacy of goodwill upon which to build. Mary is leaving to lead a major new project on parent education and we thank her for her contribution to the Council over three years and wish her well for the future.

23. I think I have spoken for quite long enough. Now its over to you. I, and the rest of the panel, look forward to hearing your questions, views and suggestions.

Note of the meeting

The purpose of the event was to explore how best the Council can engage with parents, those working with parents and groups representing the views of parents. The Council is looking to ensure that it listens to the views of parents and takes account of them in its work. It is seeking suggestions as to how best it can achieve this. One of the challenges in this area is how to identify which voices to listen to. There are many groups purporting to represent the views of parents.

The Council invited over 40 representatives of organisations representing the views of parents, or working with parents and a few individual parents, who were not affiliated to any group, to the Grand Committee Room in the House of Commons to discuss how the Council can engage constructively with parents. A list of those who attended the event can be found using the following link: [Attendees](#)

The event was chaired by Baroness Howarth, a board member of Cafcass. After a few words of welcome from the Chair, Lord Justice Thorpe gave a short speech which can be read in full by using the following link:.

The Chair then introduced the members of the Panel who would answer the questions that a number of the invitees had submitted in advance. The Panel comprised:

Mary MacLeod

Her Honour Judge Lesley Newton

District Judge Nicholas Crichton

Beverley Sayers

Anthony Douglas

For biographies, please use the following link: [biographies](#) All of the panel members were members of the FJC with the exception of Anthony Douglas who is the Chief Executive of Cafcass.

The Question and Answer session lasted about an hour and a half and covered a wide range of issues. The Grandparents Association asked whether there is a valid policy reason for requiring grandparents in most cases to seek leave to make an application for contact or residence in respect of a grandchild, and what is the evidence that such a policy is in the interests of children? The Panel were of the view that the leave requirement was an unnecessary hurdle and that the time had come to remove it. The Council has undertaken to examine the matter with a view to raising it with ministers.

Several of those present raised issues around the concept of shared parenting (Equal Parenting Alliance, Equal Parenting Council and Child and Parent Alliance) and asked why the courts appeared to be reluctant to accept the concept and why it would not be possible to set out guidelines of 'reasonable' contact for non-resident parents. The Panel responded that the courts *are* very much in favour of both parents being involved in the upbringing of their children and that the starting position, unless there are good reasons to the contrary, is that non-resident parents *should* have reasonable contact. The Panel also pointed out that there are guidelines in case law as to what constitutes 'reasonable' contact. The Panel felt that determining the appropriate level of contact was not a mechanical calculation and depended on a wide range of factors which varied according to the circumstances of the family. This was why our system left so much to judicial discretion and why it had not been felt appropriate to attempt to frame statutory, or other, guidelines on 'reasonable' contact.

The Archbishops' Council asked what comments does the Family Justice Council have on the value of Family Assessment Centres as an essential resource in care proceedings which is appreciated by families even though the assessment will sometimes be negative? The Panel expressed strong support for the evidential value of assessments as important tools which enable the courts to make decisions on the basis of reliable professional advice on the capacity of parents to parent. The Panel noted that legal aid funding had been withdrawn from assessments and that, in the light of this development, it was crucial that funding from local authorities be made available to plug this gap.

The representative from JUMP (Jewish Unity for Multiple Parenting) asked why the family courts were still so adversarial and why more stress was not put on mediation. The Panel responded that the family courts retained an adversarial form for historical reasons but pointed out that the procedural rules governing them had been moving away from adversarialism over a long period of time and were continuing to do so. Also, mediation had become a mainstream service within the system which was no eligible for public funding. The Panel accepted that there was more that could be done to encourage the use of mediation in appropriate cases and expressed the hope that the 'contact activities' provisions of the Children and Adoption Act 2006, which the Government is expected to consult on in 2008, will give a further boost to mediation services.

The Litten Tree Group raised the issue of transparency in the family courts and asked: 'What steps are the FJC taking to extend the definition of an 'elected representative' in the Disclosure Rules to a local councillor in order to ensure that the increasing number of parents visiting councillor surgeries to seek help in public law matters are dealt with justly?'. The Panel agreed that it would be appropriate for local

councillors to come within the scope of the Disclosure Rules to allow them to assist their constituents.

The Donor Conception Network, a charity supporting families that include children born as a result of donor assisted conception, suggested that there was considerable uncertainty among judges and Cafcass officials about good practice on the upbringing of donor conceived children. Their representative accepted that such disputes arise rarely but asked how best the charity can contribute its knowledge of good practice in this area so that disputes are resolved consistently and with outcomes that further the best interests of the children and their families? The DCN would be willing to provide training to the judiciary and other relevant professional groups on good practice in dealing with donor conceived children. The Panel acknowledged that there may be a lacuna in judicial training here and undertook to put the DCN in touch with the JSB in order to further discuss the issue. The Panel thanked the DCN for its offer to provide training.

Families Need Fathers (FNF) informed the meeting that, since April last year, they had been approaching all local Family Justice Councils in order to gain a place at the table, either on the council or in a linked capacity, such as a training or user sub-committee attendance. FNF now participates, in some form, in 26 local Family Justice Councils. They would encourage other voluntary organisations in the sector to do the same.

FNF went on to ask what value does the Family Justice Council put on user involvement in the local Councils and, given that bottom up consensus is more effective than top down direction, what plans do the Council have in developing the direct user involvement throughout the network?

The Panel responded that the FJC places a high value on user involvement hence the present Forum meeting. It noted that Local Family Justice Councils have sought to involve users in a variety of ways and that much depended on the willingness of local user groups to work with other groups representing different views. In those areas where co-operation had been forthcoming, user sub-groups were proving that they could make an important contribution to the work of the Local Family Justice Councils. The National Council feels that it is best to leave decisions on how to engage with its local user groups to the each of the LFJCs.

The National Association of Child Contact centres expressed concern over the increasing number of parents trying to manage their own referral to centres rather than it being done through solicitors or Cafcass officers. This can place a heavy burden on coordinators, most of whom are volunteers. The parties, understandably, often want to discuss their own situation at great length, rather than simply request a

form. Such referrals happen even when the parties are represented and NACCC believes it to be indicative of the increasing financial pressures on firms caused by the changes to legal aid and considers these problems are likely to increase. Does the FJC have a view on this issue?

The Panel agreed that this trend was a symptom of funding difficulties, especially legal aid, and accepted that this must place more of a burden on NACCC volunteers. The Council pointed out that it had supported NACCC in the past in its negotiations with Government and would continue to do so in the future especially as the Council feels that it is very important to try to secure more contact centres offering supervised and supported contact.

Family Links International (FLINT) raised concerns about the rigour and reliability of the expert evidence relied on in the family courts, the apparent reluctance of the courts to recognise Parental Alienation Syndrome (PAS) and suggested that confidence in the system was dented by the perception of an 'incestuous' relationship between the judiciary, experts and Cafcass officers. The Panel rejected the notion that the family courts had an 'incestuous' relationship with experts and Cafcass officers. The judicial members of the panel stressed that their function was to assess the weight and persuasiveness of expert medical evidence and that provided by Cafcass officers. Like other professionals, the quality of Cafcass officers varies and, therefore, the quality of the evidential value of their reports varies. In the family courts it is the judiciary's job to sift the evidence. The judiciary does not accept evidence uncritically merely because it is presented by a medical expert or a Cafcass officer.

John Hemmings MP raised the issues of transparency and accountability for the decision making of social workers and Cafcass officers. He was opposed to allowing the media into the family courts but felt that much needed to be done to make social services departments of local authorities and Cafcass more open and accountable. These organisations held all the cards in public law cases – the parents often felt powerless to defend themselves. He went on to argue that his experience of dealing with constituency cases suggested to him that incompetence, mismanagement, wrongdoing and a culture of secrecy and cover-up on the part of social services were widespread. These concerns were shared by Sasha Watson, a parent who was not affiliated to any group.

The Panel agreed that greater transparency on the part of social services and Cafcass would be desirable but they did not accept the view that deliberate wrongdoing was widespread.

As the Q&A session drew to a close, John Baker, the Chair of FNF, thanked the Family Justice Council for organising the event which, he

felt, had been worthwhile and gave strong support to the establishment of a user sub-committee of the FJC which, he believed, could work together as disparate parents' groups had co-operated in the past and they could do so again. Consensus building, on at least some issues, was possible.

The Chair then asked those present if they would like this to be made an annual event – there was general assent. Those present indicated that they would be prepared to be part of an e-mail group that the Council could use to test the views of parents. There was also strong support for a parents' sub-committee of the Council. Alex Clark, the Secretary to the Family Justice Council, explained that a selection process to identify a new parents' representative for the FJC was currently underway and that the new member is likely to be in place by January 2008. He undertook to pass on the views and messages coming out of this meeting to the new parents' representative and, once they had some time to get to grips with their brief, it would be for them to advise the Council on how best to take things forward. The Council was also looking forward to the publication of a literature review by Joan Hunt, of Oxford University on research into parental experiences of the family justice system which will help to identify the issues of greatest importance to parents.

The Chair thanked all those attending for their time and the contributions that they had made and closed the meeting.

Several Family Justice Council members attended the meeting and contributed to answering some of the questions from the floor. They were:

Stephen Cobb QC – family barrister

Katherine Gieve – family solicitor

Sheridan Greenland – HMCS

Elaine Laken – Justices' Clerk, Avon & Somerset

Christine Smart – Children's Rights Director, cafcass

His Honour Judge Altman, the Designated Family Judge for London and the Chair of the Local Family Justice Council for London, also attended the meeting.

Biographies of Panel Members

Anthony Douglas

Anthony Douglas is Chief Executive of Cafcass, the specialist national agency representing children and families in family courts throughout England. Cafcass supports over 100,000 children in public and private law cases every year. Prior to this he was Director of Social Services in the London Borough of Havering, where he was also Director of Housing, Leisure, Libraries and Neighbourhood Services, and more recently, Suffolk, where he was Director of Social Care and Health Services. He was an economist and then a journalist prior to becoming a social worker. He has written 3 books on UK social care and is now writing a fourth on social care partnerships. He has been a school governor, a government adviser on specific programmes, and is a Visiting Fellow of the University of East Anglia and Chair of the British Association for Adoption and Fostering (BAAF).

Mary Macleod

Mary MacLeod joined the Family and Parenting Institute as its first chief executive in October 1999. Formerly of Barnardo's, Lothian Region Social Work Department, ChildLine and the Universities of Edinburgh and North London, she has written widely about child and family welfare. Publications include: *Why Me? a study of bullying*; *Children and Racism*; *Child Protection: Everybody's Business* and *Unhappy Families, Unhappy Children*. She is an Honorary Research Fellow at the University of Warwick, a member of government and non-government research and policy advisory groups on children and family issues, a member of the Family Justice Council and a Board member of NCB. She is interim Chief Executive for the National Academy for Parenting Practitioners, which is being launched in October 2007.

Her Honour Judge Lesley Newton

Called to the Bar in 1977 and joined chambers in home town of Middlesbrough. Subsequently moved to Manchester where she practised for over 20 years. In the latter years Lesley specialised in family cases particularly those involving children.

She became Head of Young St Chambers in 1997. Judge Newton has served on numerous committees and organisations concerned with the development of family law.

Appointed as an Assistant Recorder in 1995, Recorder in 1999 and as a Circuit Judge in 2001.

Judge Newton currently sits in Manchester conducting both family and criminal cases. Manchester is a busy care centre and much of her workload involves public law applications.

The Rt. Hon Lord Justice Thorpe

Educated Stowe and Balliol College, Oxford.

Called to the Bar, Inner Temple, 1961.

Bencher Inner Temple 1986.

A mixed practice until taking Silk in 1980, thereafter specialising in family law. Counsel to the Cleveland Inquiry 1987. Appointed a judge of the High Court, Family Division, in 1988. Liaison Judge for the Western Circuit 1991-1995. Appointed a Lord Justice of Appeal in 1995.

Deputy Chair Family Justice Council and chair of its Executive and Expert Sub-Committees.

President: Parentline Plus and Mediation in Divorce.

Presently: Lord Justice of Appeal. Deputy Head of Family Justice. Head of International Family Law.

Governor: Thomas Coram Foundation.

Trustee: St Saviour's Priory.

District Judge Nicholas Crichton

Inner London Family Proceedings Court at Wells Street

Currently Lead FJC member for work on 'hearing the voice of the child'.

Nicholas Crichton was a solicitor in private practice in North West London with particular interest in care proceedings and child protection, 1971 – 1986.

Appointed Metropolitan Stipendiary Magistrate, since renamed District Judge (Magistrates Court), 1986. Appointed Recorder (public and private family law tickets) 1991.

Appointed in 1995 to sit full time in Family Proceedings and closely involved in setting up and development of Inner London Family Proceedings Court at Wells Street, which opened in April 1997.

Former member of Judicial Studies Board Family Committee and former chair of Inner and North London Guardian ad Litem Panel Committee.

Chair and serving member of a number of committees and groups including Association of Lawyers for Children Young Persons Sub-Committee, NSPCC group producing information for children with disabilities who face care proceedings, Coram Family Advisory Groups and National Youth Advocacy Service Professional Advisory Group.

Frequent speaker at International Conferences and regular work in the field of child protection in Russia and Bulgaria.

Beverley Sayers

Beverley is one of the co-founders of Family Mediation Manchester Ltd. She has been mediating with them since 1994. She acts as a professional practice consultant (PPC) for The Family Mediators Association (FMA) and Resolution (formerly SFLA, The Solicitors Family Law Association).

Beverley is a member of the FMA training team and runs mediation courses in the North West for Resolution. She was part of the Relate/FMA team that took mediation awareness training to the judiciary throughout the later part of the 1990's. More recently she co-convened and chaired a conference 'Working In Partnership' and co-convened a mediation awareness training for the Manchester judiciary. She recently refined this mediation awareness training and presented it to the Liverpool and Chester judiciary as the basis of a model to be used nation-wide.

Beverley was one of the original team assessing competence of mediators for the Legal Services Commission as it launched its publicly funded mediation services in 1997, prior to becoming a mediator competence assessor for the UK College of Family Mediators.

She sits on the Board of the Family Mediators Association and is Chair of the FMA Complaints Sub-committee. She is a member of Resolution.

In January of 2007 she became the mediation representative on the Family Justice Council and joined the Children in Families (Private Law) Committee and the Domestic Violence Committee. She is FJC liaison to the Chester and Stafford LFJC's.