

**TRANSPARENCY IN THE FAMILY COURTS IMPLEMENTATION GROUP
DATA COLLECTION WORKING GROUP**

Tuesday 26 April 2022 at 4.45pm (on MS Teams)

Attending

Nicola Shaw (Chair)

Olivia Kirkbride (Secretary) (Serjeants Inn Chambers)

Dr Natalie Byrom (Director of Research and Learning, The Legal Education Foundation)

Lisa Harker (Director, Nuffield Family Justice Observatory)

Dr Julie Doughty (Senior Lecturer in Law, Cardiff University)

Olive Craig (Senior Legal Officer - Rights of Women)

MoJ Policy (Head of Public Law Policy Team)

Clare Walsh (Family Rights Group)
Senior Analyst, Cafcass

Femi Ogunlende (Barrister, No.5 Chambers)
Chief of Staff, Office of the Domestic Abuse Commissioner

DfE Policy, Family Justice Policy

Maria White (Assistant Director Safeguarding, Worcestershire CC)

SG, Assistant to President of the Family Division

Apologies

Jason Llewelyn (Family Service Manager, HMCTS)
Family Justice Young People's Board Co-ordinator, Cafcass

MINUTES

1. Minutes of the previous meeting and action task list

The minutes were approved.

The group went through the Action Task list.

- HMCTS Policy had not yet provided a response to the data request spreadsheet provided by Natalie Byrom.
NB: HMCTS Policy provided a full response to the spreadsheet data requests on 27 April 2022.
- DAC Chief of Staff said that they were hopeful that the DAC Data collection pilot would get the funding for this financial year but were awaiting a formal response.
- SG informed the group that Jason had completed his action to provide an overview of the common components roll out.
Action: Common components overview to be shared with the group.

- MoJ Policy completed their action point regarding linking with the Public Law team and discussed it with Emma Petty and Adam Lennon.
- Natalie Byrom explained that the Shadow Senior Data Governance Panel was a group that dealt with novel uses of data. They look at issues of availability and quality of data. The Chair asked if we would need to bring our work to the attention of the panel. Natalie did not think we would. It was noted that there was a judicial representative on the group but currently no family judicial member.

Action: SG to discuss with President's Private Secretary whether we need to engage with the Shadow Senior Governance Panel.

2. Questions arising from video of Private Law solicitor's journey and progress update

No questions were raised.

3. Data Group Outputs

The Chair proposed three different outputs for the group to discuss:

- To have a data strategy
- To structure a road map to the full suite of data collection within an agreed ownership structure
- To develop a proposed Annual Report structure and some initial ideas for investigation for the publication of the inaugural Annual Report

Natalie Byrom felt that there should be a mechanism for consulting with the public and people who had been through the system - e.g. via the Family Justice Board or a Court Data User Group - to ensure that their priorities and concerns were understood. She did not consider that just liaising with the media would be sufficient.

The Chair said that the President of the Family Division, who the group would brief, would be the link to the Family Justice Board. Involvement with the media was important but agreed that there should be some wider public input.

Julie Doughty felt that there were generally two groups who had historically expressed mistrust in the Family Justice System, i.e. families involved in care proceedings (public law) and families experiencing domestic abuse issues (private law): it was important to seek their input, including in the preparation of the annual report.

The Chief of Staff to the Domestic Abuse Commissioner spoke about the need to clarify the relationship between the group's work and the work of the Domestic Abuse Commissioner, and asked whether the annual report's aim was to analyse what had happened in the past or rather to produce recommendations for the future? She felt that people might want to see a direction of travel.

The Chair's view was that the focus would be on what had happened rather than setting an agenda for the Family Justice System in the future, particularly as there were many elements to the Family Justice System not just the judiciary and HMCTS.

Femi Ogunlende agreed that a backward-facing approach avoided inevitable complexity. He also considered that good dissemination would be key to transparency. The media, particularly

social media, would be important in achieving transparency by disseminating information in a digestible format and reaching a wider audience.

The MoJ official expressed caution about how much input a high-level group like the Family Justice Board could provide; she suggested that the Family Justice and Youngs People's board would be a useful group to consult. She felt that there was a need to put parameters in place and be clear about what the objectives were when using data; she also agreed that the annual report should be backward-facing.

Olive Craig said that an increase in transparency would not necessarily increase confidence in the Family Justice System as this would ultimately depend on change within the system. We needed to be clear that we are trying to increase transparency which may not immediately increase confidence.

The three proposed outputs were agreed by the group. More thought would be given to the approach to consultation on the proposed themes (including as to how to engage with the core family court system) and on the extent to which the report could make recommendations / set a direction of travel.

4. Survey results

Natalie went through the rationale for the exercise, The TIG was established to identify and address underlying causes of lack of trust and confidence in the family justice system.

At the last meeting we heard from the team leading the feasibility study commissioned by the Domestic Abuse Commissioner and agreed it would be sensible to borrow from their approach.

DAC had five key steps:

1. Specify the issue of concern: in this case, the treatment of survivors of domestic abuse
2. Identify the data and information needed: specify the types of information needed to ensure that the issue is being dealt with effectively e.g. Management Information, observational data, judgments
3. Evaluate existing data sources: how much of this data is being collected already, where is it being collected, and where are the gaps.
4. Quantify cost: identify what steps need to be taken to address identified gaps and how much this will cost.
5. Specify publication and dissemination strategy: Who needs to have access to this data e.g. general public, researchers, advocacy groups, internal stakeholders and in what format e.g. open data, shared data, improved statistics, annual reports.

We are looking at using the data to publish reports rather than publishing open data to share with the public.

Our survey of the group was designed to help us to narrow the focus and specify priority issues of concern. Respondents were asked about the top three issues that they feel currently affect trust and confidence in the family justice system. They were then asked to tell us, to the best of their knowledge, how much reliable information is currently published about each of the issues they had identified, and (also to the best of their knowledge) who currently collects the information.

8 responses were received to the survey.

The slides Natalie used to brief the Group are attached.

The top four issues identified:

- Disparity in treatment and outcomes for litigants from different background
- Procedural fairness - are all litigants treated fairly by the family courts.
- Treatment of and outcomes for survivors of domestic abuse
- Treatment of and outcomes for children in public and private family law cases

Natalie Byrom then summarised as follows:

- Currently the majority of the data is provided by independent researchers: there is an over-reliance on independent researchers to address basic gaps in information that could better be collected and published by HMCTS/MoJ.
- Multiple types of data and methods of collection are needed to fill the gaps: For example, filling gaps around the experience of litigants and variations in perceptions of procedural justice will require multiple different strategies- including augmenting existing management information, additional survey data and observations.
- There is a need to consult more broadly on priority issues and create a mechanism for identifying, raising and addressing concerns: A data sub-committee of the Family Justice Board maybe? Or the Senior Data Governance Panel?
- There is a need to conduct a data audit to assess the extent to which the new digital systems would capture priority information. If the topics identified through this survey were the right ones, these should be cross referenced with the list in the “Data Strategy” slides, individual relevant data points identified, and the resultant list compared with HMCTS fields. This would be the least costly way we could improve data.
- Information format is key. There is a need to understand the requirements of different audiences e.g. general public, children and families, internal stakeholders (judges, court staff, lawyers), researchers, policy makers.

5. Data Strategy

The slides which Lisa used to brief the Group are attached.

Lisa Harker presented the draft data strategy slides. There is no current family Justice data strategy so we would be starting from ground zero and it would take time. This would be a starting point.

Transparency is key for both building public confidence and trust in the system but also about those from within the system having the objective information to learn from and improve.

There is a difference between the levels of detail needed by system leaders, those working in the system, system users and then wider society.

Data in itself does not in itself bring transparency but in a system that has independent judgements it helps us identify patterns and themes.

Whether a professional working in the system, a court user or member of the public, transparency is needed about:

1. What has happened to a family before they come to court?
2. Who comes to court?
3. What are their experiences of court?
4. How is the family court operating?

5. What decisions are being made about children?
6. What are the immediate and ultimate outcomes of those decisions?

We might think about using a common framework to have a consistency in data, at different levels of detail and different frequency. The annual report would give a broader overview of the data for the public, where as decision makers need more detailed data.

Data that is already available:

- Family Court stats (currently FamilyMan)
- FamilyMan dataset
- HMCTS management info
- CAFCASS

Lisa proposed that the priority data gaps are as follows:

	Key missing items
What has happened to families before they come to court?	Data recording use of and type of interventions
Who comes to court?	Ethnicity of children and parents Whether child / parent has a learning disability or difficulty Cases involving allegations of domestic abuse
What are their experiences of court?	Whether parties join by phone / video Whether the hearing is remote, in person, hybrid Whether a parent attends privately funded mediation Whether interpreters / intermediaries used Whether a child attends court, meets the judge
How is the family court operating?	How many judges/magistrates have a family ticket Gender and ethnicity breakdown of judges/magistrates Level of judicial continuity in cases
What decisions are being made about children?	Children placed under a Deprivation of Liberty order under inherent jurisdiction in England and Wales
What are the outcomes of those decisions?	What circumstances are children in 5 years from order being made – as expected or different from order?

The Chair thanked Lisa for all her work on the starting point for a data strategy. Next session we will start with the last slide of the data strategy pack and focus on next steps.

6. Any other business

Case listing:

A question had been raised in other TIG sub-groups about the current lack of information when cases were listed - it had been suggested that information about the characteristics of cases could be included in case lists.

It was thought that the new MoJ listing system did not allow for information to be added, this needed to be confirmed. Julie Doughty said that she could start exploring the issues and options and then feedback to the group.

Action: Julie Doughty to feedback her initial thoughts on changes to case listing at the next Sub-group meeting.