

To: Judith Evers
Ministry of Justice
E-mail@CivilTJ@justice.gsi.gov.uk

**RESPONSE FROM THE FAMILY LAW COMMITTEE
BIRMINGHAM LAW SOCIETY
To the Civil Justice Review Consultation Paper
30 June 2011**

This response has been prepared by Claire Darley, Vice-Chair of the Family Law Committee, in response to the recommendations of the Interim Report containing the Executive Summary and Recommendations dated March 2011.

Claire Darley attended the Consultation Meeting at St Phillips Chambers on the 7 June 2011 with a presentations by David Norgrove, and chaired by Philip Barnsley, West Midlands Chair of Resolution. An excellent cross section of persons working in the family justice system attended and the main outcomes are reported in this response. Ahead of that meeting the Childcare Lawyers Group were to send documentation to those chairing the meeting to be aware of their work involved in the Improvement Plan.

The Committee's plan shall be to concentrate its work upon the basis of the recommendations in the Interim Report.

ISSUES

CONSISTENCY and ROBUST CASE MANAGEMENT

There has been overwhelming support in Private and Public law for a consistency and robust case management and for a Judge to be allocated to each case, in particular in Private Law cases where we see the most need in the most serious cases.

Following the cuts to public funding we have witnessed more and more litigants in person and paralegals representing persons it could be argued dilute the quality of representation. Robust case management is therefore required.

UNIFORMITY

The family Justice system appears to not have been operating cohesively as a system.

A unified court approach to all cases with all levels of judiciary, including magistrates, with a single point of entry would apparently put us in line with the Criminal Justice system and would enable cases to be managed more efficiently. Inevitably this will lead to greater resources been allocated in training, but which would ensure that cases are dealt with more efficiently.

Specialist Judges need to be appointed early in a case to grapple with the issues. There appears to have been a culture of too many, and often inappropriate experts being appointed in a case.

MEDIATION

Guidance could usefully be provided by the court to practitioners of court approved Mediators who meet the minimum requirements set by the Legal Services Commission.

The scope for Mediators in public law cases may be appropriately be used as a twin-tracking approach alongside proceedings to ensure efficiency.

In order to support mediation the consideration of privately referred Private Parenting Information Programmes, with the appropriate safeguarding are encouraged.

DELAY

The Interim report proposes the length of cases in court proceedings should not exceed 24 weeks.

It was reported at the Committee meeting on the 11 May 2011 that the position for Local Authority cases for the last quarter in 2010 was that the average length of a cases were 90 weeks in the County Court, and 65 weeks in the Family Proceedings Court. The national average is 55 weeks.

The number of new cases for the Local Authority has reduced. There are approximately 255 cases in progress, with 200 new cases issued each year.

Whilst delay is not welcomed in itself, the efficiency of dealing with a case is not always measured by time, a greater degree of time may be useful in certain cases. The recommendation of six months appears to strike a reasonable balance.

VOICE OF THE CHILD

The suggestion in the group at the Consultation meeting on the 7 June 2011 was overwhelmingly for a Independent Advocate to be appointed for the Child separate from the Guardian.

The increase of direct participation of Children over a threshold age, with the appropriate safeguards may be encouraged in line with practice in the Principal Registry.

INITIATIVES BY THE LOCAL AUTHORITY

The following are initiatives put in place by the Local Authority to reduced delay and increase performance which appear to be working very well in practice.

In Birmingham we have a Delay Group known as Local Performance Improvement Group attended by Children's Services at Birmingham City Council, and Cafcass. The focus of the group is inter alia delay and the allocation of resources for Social Workers and others.

Measures have been put in place to streamline the safe guarding information for s. 7 reports for Cafcass by the Local Authority. As a result of this innovation Birmingham has been top of the league tables for the timing for providing safeguarding information. Requests made for over two weeks by Cafcass are treated as a matter of urgency.

Streamlined procedures have also been put in place for the disclosure of Social Workers files, who are dealt with by a specialist administration team. General improvements have also been made to allocating time and resources effectively to respond to e-mails. This free up the time of Social Workers.

A new care discharge project to address the review of Children subject to care orders, has been put in place. The project to reduce the delay of Children living at home being subject to care orders.

Pre-action analysis of cases at an early stage by Cafcass has been proposed as a positive step to be taken.

Claire Darley

30 June 2011