

OVERVIEW AND RESPONSE TO REVIEW OF FAMILY COURT WELFARE SERVICE IN THE ISLE OF MAN

INTRODUCTION

A review of the Family Court Welfare (FCW) Service was commissioned by the Department of Home Affairs in January 2021.

At the time of the review the two staff members had resigned from their roles and it was agreed that the review would consider the sustainability of the service model and make recommendations for the future management of the FCW service. The Review was completed in July 2022 for the Department of Home Affairs.

BACKGROUND

The Family Court Welfare (FCW) Service sits within the Prison and Probation Service in the Department of Home Affairs. The primary objective of the service is to assist the Family Court in the task of determining the best interests of children, whose parents are involved in separation or divorce or whose families are involved in disputes in family law.

A Family Court Welfare Officer is appointed by the court when parties, most commonly parents, have not been able to reach an agreement about arrangements for their children when their relationship breaks down. That officer is tasked with completing a report for the court as laid out in section 30 of the Children and Young Person's Act 2001.

CONTEXT OF COURT WELFARE SERVICES AND HISTORY OF THE SERVICE

Historically in most other jurisdictions including England, Wales and the Isle of Man, reports and services to the Family Courts and private law proceedings were provided within the Probation Service. At this time probation services employed social work trained professionals and specific teams within the service were responsible for undertaking these reports.

Over time, the primary focus of the prison and probation service shifted nationally to focus on community based diversions and corrections based prison interventions.

Running alongside the changes to the focus of probation services, the children's Guardian Ad Litem (GAL) service was set up 1984 to provide independent child focussed assessments and report by GALs directly appointed by the court in public law proceedings.

In some cases, implacable hostility and parental alienation can have a significant impact on the emotional wellbeing of children and young people and the risks of serious harm and even death of children and partners at the point of separation, are well documented in Serious Case Reviews and Domestic Homicide Reviews.

It was recognised that assessments require continuous risk awareness and for staff involved to be experienced practitioners. Due to the need for this focus and the changes happening nationally in probation, in England and Wales, the Family Court Welfare Service was separated from Probation and the Children and Family Court Advisory Service (CAFCASS) was created in April 2001.

CAFCASS brought together the services previously provided by the Family Court Welfare Service, the Guardian ad Litem Services and the Children's divisions of the Official Solicitor's Office. CAFCASS is an independently inspected service.

Different models of provision continued to exist in other jurisdictions.

In Jersey, the Family Court Advisory Service (JFCAS) operates as part of the Jersey Probation and After-Care Service, under the governance of the Probation Board, although their model is closely aligned to CAFCASS.

The developments in other jurisdictions in relation to FCW were not adopted In the Isle of Man and up until 2005 the service operated much as it did previously, with FCW report cases allocated across the eight social work qualified probation officers. At this point it was felt that specialisation may benefit the quality of work in FCW and although the demand for court welfare reports were regular, they were at quite a low level. As a result, within the probation officer team, two staff were identified as primarily Family Court Welfare Officers but at times of low demand they still carried out traditional offence based Probation Officer work.

2022 REVIEW

The review commissioned in 2021, which reported in 2022, found various themes and concerns identified during the review process, including:

Review of Complaints: The initial review was prompted by complaints, but it expanded to consider the overall service quality and its long-term viability.

Complaints and Court Process: The complaints largely stemmed from dissatisfactions with court decisions, with fathers expressing concerns about the outcome. The review emphasized that complaints should not undermine the court's judgments, as the FCW officers only provide recommendations to the court.

Bias Concerns: Some complaints raised concerns about bias against fathers in court reports. However, the audit of files showed that recommendations were centred on children's welfare, and there was no evidence of the reported bias.

Investigation and Concerns: The review highlighted issues with the investigation of complaints, as some concerns were better addressed through the court process. There were discussions about the need for a clear process to differentiate between issues that can be investigated internally and those that should be resolved in court.

Stakeholder Feedback: The report gathered feedback from various stakeholders, including the courts, legal advocates, and providers involved in court welfare cases. Concerns were raised about staffing issues, delays, lack of robust investigation, administrative support, and follow-up on concerns.

Managerial Oversight: Feedback revealed concerns about the lack of effective management support for the service, impacting timely provision of reports and availability of FCW officers in court.

Sustainability Challenges: Challenges to sustaining the FCW service within the Probation Service were discussed due to the need for qualified social workers with childcare and safeguarding expertise, proper supervision, and adequate staffing.

Proposed Changes: The report suggests options for improving the service, including rebranding, merging the FCW and Guardian Ad Litem services, and longer term exploring integration into Children's Social Care. These changes could address staffing, oversight, training, and service quality.

Conclusions: The Review acknowledged progress made by the current Head of Community Rehabilitation and the recruitment of staff in making improvements and suggests that the recommendations will support short and long-term service enhancement.

The report highlights the need to balance service improvements while maintaining the good aspects of the current practice and recommends exploring options for improving sustainability and service quality in the long term.

SEPTEMBER 2023

The Chief Officer of the Department of Home Affairs requested an updated from the Prison and Probation Service on changes made following the Review and advised that it was the intention of the Department to publish the recommendations and update to the Review.

RECOMMENDATIONS & RESPONSE

Recommendation 1: Immediate action should be taken to draw up written operating procedures and guidance for staff in the service and this should include the expected recording standards on all cases.

Response: Outstanding – New senior management appointed during 2023 will work with FCW officers to refine existing draft guidance and operating procedures. To be completed by March 2024.

Recommendation 2: The service should commit to regular supervision for all staff as a minimum and explore the options with children's social care for professional supervision and/or consultation on cases that involve specific safeguarding risks

Response: In May 2023 a new Senior Practitioner was appointed by the Probation Service. He was previously a FCWO with extensive experience of the Isle of Man Courts and FCW service. He was given line management responsibility for the CFW Service, which includes monthly supervision meetings.

In addition to this, the services of a Clinical Supervision experienced professional from CAFCASS are being procured to start with effect from late 2023.

Recommendation 3: The service should develop a basic quality assurance framework to allow assurance about the quality of casework and reports. At its most basic level this needs to include management oversight of court reports and audits of casework and should include regular service user feedback.

Response: In March 2023 a new role of Director of Operations and Governance with the Prison and Probation Service was recruited and with the new Senior Practitioner, reviews of work and reports is now undertaken on a regular basis. Work will continue to encourage service user feedback.

Recommendation 4: The service should continue to explore the introduction of electronic recording systems, in order to improve recording and allow the service to collate performance data. In the interim, a spreadsheet should be created to; assist the tracking of information requested by agencies; assess whether timescales for the production of reports have been met; to record the reasons for delay and to provide oversight about the volume of work being undertaken within the service.

Response: There is now a FCW Case Schedule which lists all allocated cases, court dates and due dates for reports. Discussions are being held with the Department of Health and Social Care regarding licensing of their social work software with a review on feasibility due in early 2024.

Recommendation 5: The training needs of staff should be regularly reviewed to ensure they can meet their role requirements, ongoing professional development and professional registration requirements. Improved training could be facilitated by formal connections with similar services in other jurisdictions.

Response: Training needs are now included in the monthly Supervision meetings. Also professional publication now subscribed to on a monthly basis.

Recommendation 6: The DHA should consider engaging with the Attorney General's Chambers to explore the potential for an amalgamated guardian ad litem and court welfare service of the type that exists in England, Wales and Jersey. This could resolve many of the issues raised about sustainability, management oversight, best value and safety.

Response: Discussion between parties took place in early 2023. In July 2023 the Attorney General's Chambers published a call for Expressions of Interest to provide Guardian Ad Litem work on the Island. The Prison and Probation Service expressed an interest and the outcome of this is awaited.

Recommendation 7: This review supports putting in place the additional resource identified to allow for two full time FCW officers whilst wider discussions about the service continue.

Response: This recommendation was actioned and there is now headcount for 2 full time equivalent Family Court Welfare Officers.

Recommendation 8: Immediate consideration should be given to putting in place a contract or at minimum a written agreement about the standards expected in any work undertaken with Horizons. This should include clarity about recording on case records and case summaries using the format used by the new CWO.

Response: With the recruitment of a second FCW officer, this contract was ended and there are no plans to re-use this organisation.

Recommendation 9: DHA should consider the best value options available to improve the assessment of contact in private law cases.

Response: This relates to locations suitable for supervised contact between children and parents and guardians. There is continuing discussion in relation to the Children's Centre providing this service and clarity regarding the vires to commission this work. The Department of Home Affairs, Department of Health and Social Care and Treasury are working to seek a solution.

Recommendation 10: DHA should roll out the new complaints procedure and brief staff in about how to use it effectively.

Response: Clearer guidance now included in the covering letter sending welfare reports to parties on where complaints should be directed to. Number of misdirected complaints now reduced.

Recommendation 11: DHA should review its destruction of records policy for the reasons outlined in this review.

Response: Following discussions regarding best practice, family court welfare records will now be kept until the youngest child reaches 25 years of age.

Recommendation 12: DHA managers should develop an interface protocol with children's social care that clarifies roles and responsibilities in assessing cases where there is a potential risk of abuse or neglect.

Response: Outstanding - Senior Practitioner to review guidance to ensure clarification of roles where family court matters also involve child protection issues by March 2024.

Recommendation 13: DHA should consider providing a brief accessible summary of the high level findings of this review and this should include the key finding that reports were balanced, of good quality, and that recommendations were based on well triangulated evidence focussed on the best interest of the child.

Response:

This summary and Prison and Probation Service response completed September 2023.

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6th September 2023