HOUSE OF COMMONS

Justice Committee

Oral evidence: Government consultation on supporting earlier resolution of private family law arrangements, HC 1435

Monday 19 June 2023

Ordered by the House of Commons to be published on 19 June 2023.

Watch the meeting

Members present: Sir Robert Neill (Chair); Tahir Ali; Janet Daby; Stuart C. McDonald; Edward Timpson.

Questions 1-43

Witnesses

I: Jacky Tiotto, Chief Executive, Children and Family Court Advisory and Support Service; Nicole Jacobs, Domestic Abuse Commissioner for England and Wales; Caroline Bowden, practising mediator, on behalf of the Family Mediation Council; Anna Vollans, Chair of the Family Mediators Association.

II: Jo Edwards, Chair of Resolutions family law reform group, Susan Grocott KC, Family Law Bar Association, and Dr Jan Ewing, Member, Family Solutions Group.

Examination of witnesses

Witnesses: Jacky Tiotto, Nicole Jacobs, Caroline Bowden, and Anna Vollans.

Chair: Good afternoon and welcome to this session of the Justice Committee. Today we are taking evidence about the Government consultation on supporting earlier resolution of private family law arrangements, and we have some of the relevant stakeholders here to give us their thoughts on that consultation and the proposals. Welcome to all our witnesses. As members of the Committee, we have to start by making declarations of interest at every meeting—the declaration may always be the same, but we still have to make it. I am a non-practising barrister and former consultant to a law firm.

Stuart C. McDonald: I am a former solicitor.

Edward Timpson: I am a barrister with a current practising certificate, former Solicitor General, former chair of CAFCASS, former chair of the national Child Safeguarding Practice Review Panel, and my brother is chair of the Prison Reform Trust.

Q1 **Chair:** Thank you. May I ask our witnesses to introduce themselves and their organisations?

Nicole Jacobs: Good afternoon. I am Nicole Jacobs, the Domestic Abuse Commissioner for England and Wales.

Caroline Bowden: Good afternoon. I am Caroline Bowden and I'm here on behalf of the Family Mediation Council, which is the umbrella organisation for all mediation organisations regulated in England and Wales.

Anna Vollans: I am Anna Vollans, the current chair of the Family Mediators Association, which is a membership organisation for working mediators, and I am a working mediator.

Jacky Tiotto: And I am Jacky Tiotto, chief executive of CAFCASS.

Q2 **Chair:** Thank you all very much for coming to help us. Let's get straight into the questions, because we have a lot of ground to cover. The consultation document that the Government put out focuses on supporting earlier resolution of private family law disputes. This may seem an obvious question, but do you broadly support that, and if so, why? What are the benefits? We who have followed the topic might all think that we know what the answer is to that question, but it is worth getting on the record what the advantages are of doing this. What do you think about the role that it can play and what is proposed? Who wants to kick off?

Caroline Bowden: I will kick off on behalf of the mediators; I am also a practising mediator. As the FMC, we very strongly support the ethos behind the Government consultation. We absolutely see the benefit of

parents and other couples resolving matters at an earlier stage. Obviously, I can speak about the benefits of mediation, which go beyond just the children matters; it is about not just the quantity of time parents spend with each other but the quality, learning to co-parent and to communicate effectively, and having longer lasting solutions. Equally, there are benefits from the pre-mediation meeting, the mediation information and assessment meeting, MIAM—I think that is going to come up quite a lot. Those benefits can be stand-alone ones in terms of the triage role and being able to signpost to other services, as well as assessing suitability for mediation, and possibly in the future, as a result of this consultation, referring to parenting programmes.

Nicole Jacobs: I agree with that. Obviously, we do not want people in court who do not need to be there, who should not be there, or who would not benefit from it. But domestic abuse is something that we have to really carefully consider in the middle of these proposed reforms. While I am not saying at all that every single case of domestic abuse needs to proceed to court—that is an adversarial system and there are difficulties with that, and there are well established recommendations in the harm panel report, which Government accepted—this does tie into some of the concern about the proposed reforms. We have learned and know that domestic abuse is often not something that you can readily ascertain in a first conversation. It is possible, but it is more likely that as victims of domestic abuse understand the importance of this—that something so private, which they may not have talked about or sought help for before, needs to be disclosed and considered—they will feel compelled. That is not a one-off process or something that is quick to screen for necessarily, and there are huge implications if you miss it. In any kind of consideration of out-of-court remedies or earlier resolution, that has to be thoroughly dealt with. I do not think we are there yet. There is a lot that we can do, and I will probably explain how that can be improved in these proposed reforms.

Q3 **Chair:** In fairness, the vast majority of private family law cases are unlikely to involve allegations of domestic abuse. That is what the evidence and the statistics show, isn't it?

Nicole Jacobs: It is hard to know. We are setting up an oversight mechanism now in our office, as one of the harm panel recommendations was to look at how domestic abuse is being dealt with in family court. We are launching that in the autumn, starting in three courts. The reason why that is so important is that sometimes we record harm but not what harm is alleged; there are many gaps and missing information. We have had legal academics and many stakeholders—here on the panel and others—help us with this. We do not know precisely how often domestic abuse is being alleged; we just know that it is often, with some smaller scale studies saying that it is upward of 60%. Because domestic abuse is a highly prevalent crime, whether out of court, in court, or wherever you find separating families, we should be expecting to see an awful lot of history of domestic abuse, whether it has been disclosed or is known or, in other words, evidenced.

Q4 **Chair:** We will only know when we see the facts, won't we?

Nicole Jacobs: Exactly.

Anna Vollans: We also welcome the Government's intention in strengthening the pre-court space. To add to what Caroline was talking about, there is a huge benefit to reducing parental conflict at an early stage and thereby the impact on children and young people. We all know what the negative outcomes of prolonged parental conflict are.

Jacky Tiotto: CAFCASS is not involved in the pre-court space, but we do support the consultation. I think the debate to get into is what you screen for, who screens and what path those families take, because 60% of the applications to CAFCASS and the family court have an exemption ticked for the mediation. I think that needs a conversation.

Q5 **Chair:** Are your teams organised to look for those areas?

Jacky Tiotto: Yes.

Q6 **Chair:** I think resolution and mediation is fine, provided that you have people who are prepared to mediate, but I suppose that raises the initial question: what is the best route into mediation? Some of us remember the Legal Aid, Sentencing and Punishment of Offenders Act and the idea that everything would move into mediation and mediation will drop through the floor. Do you think the consultation realises the risk that you need, some would argue, early legal advice to get you into mediation? That might pick up some of the concerns as to what is involved, as well.

Caroline Bowden: We recently came across the Irish Mediation Act, which compels solicitors to put in a statutory declaration to say that when they have been working with clients they have talked to them about mediation, given them the details of local services and explained the benefits and where it is not suited. Something like that will be raised, together with, early legal advice.

Q7 **Chair:** I understand; that is very helpful. Then there is the online tool we have to help people—the hub that has been suggested. Are we making too much of that? Is it useful as far as it goes, but you do need something on top? Not everybody will be able to access those things online. What is your sense about the priorities we are giving to that? Are people accessing the information available? I think the president of the family division had a concern that people were having to resort to the internet.

Anna Vollans: Yes. I can say as a working mediator that we see that a lot—people trying to wade through lots of information that is either word of mouth or is available on the internet, some of which is excellent and some of which is not. I can see the benefit of having a place that people can feel safe and feel that that is the place where they are going to access good information; absolutely.

Jacky Tiotto: Could I return to your previous point in terms of early legal advice? I think that absolutely, but there is a question in this consultation and subsequent debate about why the MIAM exemption is so prevalent now, and why the current standard of having a pre-mediation assessment

is not enforced by the courts. I think that, before we strengthen it, we have to ask why it is not working now.

Chair: Good point.

Q8 **Edward Timpson:** May I ask you about some of the co-parenting programmes? There have been some changes over the years, and it depends on what part of the country you are in, too; England and Wales have a different system. In my day, I saw the early beginnings of the SPIP—the separated parents information programme. My understanding is that about half of those are still ordered at final hearing, not right at the beginning of an application. The Government's consultation is looking at whether parents attending the co-parenting programme—clearly where it is deemed suitable, going back to the point that we were talking about before—should be introduced as a mandatory requirement. What are your views on the current co-parenting programmes? How well are they working? What is your view on the potential mandatory element of the co-parenting programme for someone who wants to pursue a case further beyond mediation and potentially into court? Has anyone got any views both on the current state of co-parenting programmes and whether they should be mandatory or not?

Nicole Jacobs: I will start us off. My colleagues will know much more about the actual programmes, but I suppose one of the concerns I have about any of this, including the online materials or the engagement prior to these programmes, is that we are often assuming quite an empowered stance for both parties. Victims of domestic abuse could be operating on many assumptions that could be quite real in terms of what will happen if you say this or that, and their ability to trust that the system will fully understand their situation and concerns. Some early evaluations of SPIPs showed that screening for domestic abuse in particular was quite inconsistent.

At the start, before we press go on anything, we really have to understand how we could adequately know that we would have screening but then ongoing processes for when domestic abuse or those dynamics arise. That is just so fundamental and we are fairly far from that. I would also say that I have talked to many victims and survivors of domestic abuse for whom English is not their first language; we have to be mindful that they will have some difficulties with online tools or other kinds of information. To them it would have to be coherent and clear enough that they would feel that they were entering in with both eyes open and fully consenting to what is going on. I just wanted to say that before hearing a bit more detail about the actual programmes.

Anna Vollans: A lot of my experience is working with families in the pre-court space, where obviously access to parenting programmes, certainly the SPIP, historically has been difficult; generally, it is something that people have accessed in the court process. Having said that, we are often working with families who are going through the court process or even after the court process. Actually, we heard some really good feedback and some really good examples of lightbulb moments for families on parenting

courses where, particularly because it is a separate space—they are not with the co-parent—there can be some real exploration of, in particular, negative thinking or negative behaviours that have a huge impact. We definitely hear reported real change in behaviours that have really brought about significant change for the family moving forwards. We would be really supportive of parenting programmes being able to be accessed more readily in the pre-court space.

One of the questions was around whether it should be mandatory before mediation; we do not think that it should be. We think that timing is crucial. For some families, it would be something that would be helpful to access before mediation, but for others, groundwork in mediation actually means that that they are more able to access the parenting course. We would not want it to be to be mandatory, because often mediation is stepping in to be a quick response for some urgent issues that need to be sorted out.

For those reasons, we would not want it to be mandatory before mediation. On whether it is mandatory before court, I do not know who would be assessing whether that was suitable, but I can see some benefit in that before access to the court process.

Jacky Tiotto: It is a muddle for parents that it is currently not mandatory. I think we need a clear line. The separating parents information programme is now called parenting together, and it has changed from being purely online to some in-person arrangements and the culmination of a parenting plan that both parents agree. Our intention is that children are also given that plan at the end of that programme. To that point, it is really important that any of the changes this consultation enables have to be focused on what children are experiencing, because we only really talk about adults in this space, and not enough about children and the impact on them.

That aside, the SPIP was accessed by about 25,000 parents a year, and we think that number will go up using parenting together. It can now be accessed, if family court advisers think it is a good thing, without the court ordering it, and we think that should be pushed even further upfront. Our position—not that we would fight to the death on it—is that it would be a helpful thing to take into the pre-mediation assessment meeting, because the mediator would have a chance then of looking at what those parents had been able to discuss in relation to their parenting. That is not to say that it has to be mandatory, but I think it would be helpful.

Caroline Bowden: I would add that we have only anecdotal information about the parenting programmes so far, because we do not refer clients to them. We would welcome that happening, but not—just as Anna said; I echo everything she said—that it is a requirement before mediation starts. We do not want to be the ones who are trying to police that, and one parent is going to be more enthusiastic than the other, for example. We also have to look at exemptions carefully, because they will be different from the exemptions for attending the MIAM. You can imagine that if there is an application for leave to remove a child to Australia, you are not

wanting to go into a parenting programme that is set up in the same way as when you are talking about weekends and how to communicate when you meet each other at handovers. There needs to be a careful look at what categories are exempt from that.

Q9 **Edward Timpson:** One of the conundrums here is that the way the system is set up currently, a lot of parents have to go through quite a few formal hurdles to access something like a co-parenting programme, and CAFCASS is restricted in when it can start to get involved, as is the court before it can suggest or order that programme to take place. What we are seeing from the Government is an attempt to bring some of that decision making forward, so some interventions should be done much earlier, but then there is a question about who should be making those decisions if it is in the pre-proceedings space. Should it be CAFCASS? Should it be mediators? Should it be a combination of both? As an adjunct to that, what capacity is there in your collective professional capability to meet the potential demand if more parents were able to access this type of support and intervention much earlier? Do you want to have a go at that, Anna?

Anna Vollans: It is a good question. As a working mediator, the idea that I am now going to be assessing in every case, or most, in a very formal way, as opposed to signposting or referring to a parenting programme, suggests quite a lot of extra work. There would need to be a lot more training and collaborative working to be able to do it. I guess in theory we could, but it would be a significant change to the work we are doing. I would rather be signposting or referring to somebody else to do that assessment, but I take your point. If we are for bringing it forward, somebody has got to do it, and a big challenge with all of this is resource across the board. Caroline, you might want to answer on capacity.

Caroline Bowden: I suppose we are just referring out, but I would say that in terms of messaging, going back to online tools and things like that, if there were some Government expectation documents—the midland circuit has provided an expectation document, which is a very useful document about what parents should expect, or should be doing, in the family space—that would mean that it was not for the mediators, or any other people working in this space, to nag. It would be just to say, "This is the expectation. This is the culture change that we are expecting."

We will be talking about this later, but it is our view that you cannot have compulsory mediation, but you can have compulsory MIAMs—the pre-court mediation information and assessment meetings. There is not much point in just one person coming to you if the other person does not, and then that one person attends a parenting programme but the other parent does not. The compulsion will be at the stage of a one-to-one meeting with us, which is not mediation. At that point we can say, "Here are these expectation documents. There might be consequences, I'm afraid, if you decide not to go to a parenting programme, but this is what the system expects of you."

Nicole Jacobs: I will continually bring us back to this. I fully recognise that there will be many families where this is wholly inappropriate, and I do not want you to misunderstand my view about that, but for domestic abuse, no matter who is doing it, you would have to have a very reasonable high expectation of the skills and knowledge to understand domestic abuse. The Government's harm panel report says really clearly that we are not at that stage yet. Three years on, even though we have clearly had some progress, we all know that we are not at that stage yet. We have to consider that. There is also the disjuncture between assessing and the fact that in these programmes much more knowledge and detail could well come out—and what happens then? We have to be able to answer these questions before we could seriously consider much of the language that orients us to mandatory.

I am not somebody who carries out MIAMs, so you could correct me, but my understanding is that the payment and arrangements for those are for a 45-minute session, potentially, at the start. I want the Committee to understand that, and to compare it with the area that I do know, which is domestic abuse service settings, and how much you would reasonably expect to be in an intake and a first discussion with a victim. To do the core risk assessment would take upwards of an hour—and that is somebody who comes to you telling you about domestic abuse. There is a lot to unpick in terms of the dynamics of coercion and control, and the voice of the child, to do this properly.

Caroline Bowden: We might be talking about different thresholds for different things in terms of domestic abuse, because there might be different thresholds to attend a separate parenting programme and a separate MIAM, and then a different threshold and a higher bar for mediation. Now mediation has changed as well, because you now have online mediation, so people are in totally separate spaces. Obviously the definition used to be about domestic violence. For domestic violence, people sitting in the same room is absolutely inappropriate, and everyone can agree on that, but you can have shuttle mediation online, so that you are listening to one person and hearing their views, and then you go to the other meeting room and hear the other person's views.

You have to say, "A threshold for what?" It is not just a stand-alone question: has there been domestic abuse? Would that person who is the victim of domestic abuse still want to have their voice heard in a particular safe context? We are screening for different things. It is very complex and nuanced, and I agree that it takes time, good listening skills and other skills.

Q10 **Edward Timpson:** That may go back to the point that Jacky addressed around who should be doing the assessing at this very early stage, and who has the full range of professional knowledge and skills to deal with all these different and often very sensitive scenarios. Jacky, do you have any thoughts on that?

Jacky Tiotto: I have lots of thoughts on it. Where the state gets involved in private family life is a debate forever. I think one of the questions here

is where you start putting down requirements before court on families, and who you start insisting does assessments of the sort that are being discussed. You could be running earlier child protection screening than you are even now, if we are not careful.

The thing to home in on is that families are not well served now by the fact that the courts are overwhelmed. If there is a scenario of domestic abuse in a case that is in court, there is a huge wait now for fact finds. That delay needs to be shortened, not least for children.

There are two options. Either you enable mediators and that sector to do this screening—the capacity for that is not there now, so there has to be a resource investment there—or you enable CAFCASS to see families and children earlier where there is a known or alleged risk, which, again, is not resourced. I think we have to debate that further; it comes down to whether that happens before court or once you have made the application. You are incentivised to go into court, because you pay your 230 quid and you are in the system, whereas at the moment you are going to have to pay a whole lot more before court, so why wouldn't you go into court to have it play out there?

Caroline Bowden: There is capacity for mediators to assess for screening for mediation; it is just not their role to assess for parenting programmes. I think there is capacity for that.

Q11 **Janet Daby:** Good afternoon. The Government are currently working with the Family Procedure Rule Committee to review exemptions from MIAMs. Do you agree with the Government's view that too many families are currently exempted from attending MIAMs? If you do agree, why do you think this is happening?

Caroline Bowden: Shall I start off? I was on the working group of that family mediation rule committee. We did go into a lot of detail, and we are hoping that as a result—the consultation has just finished—some of the exemptions will be lifted. Some things were logical: for example, there is no longer a need for a geographic exemption because things are online.

It is just anecdotal why there is such a huge breach in the current rules. I cannot really do anything but speculate, but something like 60% to 67% of those people who do not really have an exemption go through the doorway. You need a lot more monitoring at court of whether there has been a properly claimed MIAM exemption. The rules are going to add further proof of that exemption, because it has been more honoured in the breach, and I do not quite know why. Obviously a lot of people say urgency; for them, every matter is urgent. With those that are curated by solicitors, sometimes the anecdote is that solicitors will write a couple of letters and say that they have done some form of settlement negotiations. But this is all speculative and anecdotal, I am afraid.

Jacky Tiotto: I agree with everything that has just been said. I think it is true that it is an incentive to go into court, rather than do something else.

The "something else" is muddled and more expensive. I think we have to look at that too.

Q12 **Janet Daby:** So do you think that cost is an element in this as well?

Jacky Tiotto: I do—cost and information. We started by talking about what you actually see as a parent: when you first decide to separate and you open your computer, what does it say you need to do? That place is a muddle, but what is less of a muddle is "I can make an application to family court. I can pay my £230 and I am in. I get a social worker and I get a judge or magistrate." It is pretty clear, and I think that does play a part.

Q13 **Janet Daby:** It sounds like the pre-work needs to be there, and the solicitors' advice. Do you want to come in, Nicole?

Nicole Jacobs: As an ever-so-slight counterpoint, I am not saying that in all cases domestic abuse victims or survivors would not want some of these other remedies—I was just talking in the hallway about those who do—but it should not surprise us to know that there will be some families who will need the court to help, and that the assessments and all of what Jacky has just described would be of benefit.

There are a whole host of issues there for domestic abuse. I am not saying that it is all perfect by any means, but given the prevalence of domestic abuse and the fact that we are dealing with separating families, we should see some level of exemption. But we lack a lot of data. That is why I am looking forward to launching some of the oversight mechanism that my office has been asked to do: so we can get to some very tangible data, which we all desperately want.

Caroline Bowden: Could I add to that? The Family Procedure Rule Committee were not actually looking at changing the existing exemptions for domestic abuse—they call it domestic violence—because they did not think they had the wherewithal to do that. Going back to my point that there should not be a blanket ban on domestic abuse victims attending a MIAM, these are MIAM exemptions, so I think that does need looking at again, which was not done by the rules committee.

Q14 **Janet Daby:** Would you say that mediation is always unsuitable in cases with historical or current domestic abuse concerns?

Caroline Bowden: No, not at all. For practising mediators, it is about the conversations that you have—going back to the MIAMS—with these people. There are so many different situations, so many dynamics and different timescales. Sometimes this might have happened years ago, or sometimes victims feel that they now have a voice that they did not previously have. I will quote somebody who came into my office last week, and you could almost hear the strength of her voice: "I've had help from a therapist—helped me so much. Now I am not a victim of his abuse. When gaslighting, I started to stop him. I am not going to be silent. You are not a doctor. You can't say I'm mad."

You could hear that she wants to have a voice, so I don't feel that the state should be saying, "Actually, no, you are exempt from having your voice heard." It absolutely has to be a fully informed consent, with a lot of safeguarding to ensure that it really is their will, and that they have the agency to say that they want to go ahead with that process. As I said before, it can be online, it can be shuttle or it can be in a protected space.

Janet Daby: That is very clear.

Nicole Jacobs: To finish that thought, though, all of that flies in the face of a language that is couched in mandatory mediation. We can very easily concede all of those points, but the minute that that language is there, it has a chilling effect on a victim who is separating and thinking about what to do: "Should I just agree? Should I just capitulate? This is going to be way too dangerous, difficult and traumatic." That is where the real difficulty is.

Q15 **Janet Daby:** So the difficulty is with making it mandatory.

Caroline Bowden: I think we all agree that we are horrified at the idea of mandatory mediation. We would say mandatory MIAMs, but we would say that mandatory mediation is an oxymoron.

Q16 **Janet Daby:** That is interesting. Staying on that point, what impact could mandatory mediation have on those who have ever experienced or are currently experiencing domestic abuse? I know we have just talked about that, but I am interested to see whether there is anything further.

Caroline Bowden: The very heart of mediation is that it is a voluntary process.

Q17 **Janet Daby:** And that's what makes it work?

Caroline Bowden: And that's what makes it work, because the parents have that commitment. It is not a third-party adjudication. They own it, and that is what can be so powerful. But it has to not be mandatory.

Nicole Jacobs: The typical dynamic is that people think you would spot a perpetrator of domestic abuse a mile away, and they would be obvious. They can be very charming; that is how they get away with a lot of their behaviour with the victim, the children, the family and everyone else. There are many reasons to safeguard that environment and have skilled people doing it. I just wanted to add that, because we hadn't said it.

Janet Daby: That is very helpful. What you are saying is that there needs to be that sense of freedom, and freedom of choice. That is going to help a person to be able to explain or talk about their situation, and that is obviously always in the best interests of the child because it is looking at what is best for the child. Thank you very much.

Q18 **Stuart C. McDonald:** Thank you to all our witnesses. Let us imagine we have got to the stage where mediation has not worked out, and at least one of the parties is wanting to go to court. I will turn to Caroline and Anna first. The proposal seems to be that there has got to be an

assessment of whether parties have made a reasonable attempt at mediation. I have a couple of questions about that. What does a reasonable attempt look like? Is it about time? Is it about unreasonable demands? What is a reasonable attempt?

Secondly, who is the best person to judge whether a reasonable attempt has been made? I can imagine that on the one hand you as mediators are the best people to make that judgment, but on the other hand you are trying to build trust with both parties and it would put you in a position where you had to pick between them. Do you have any thoughts on those questions?

Caroline Bowden: Given what we have just said, I'm afraid we are not that keen on having to assess a reasonable attempt to mediate anyway, because what on earth would reasonable be? Even if it were attending one mediation meeting, you cannot drag someone into mediation. I just think that that cannot work, but we do not want to be negative about the whole ethos, because I think if it is all packaged—not this one thing about mandatory—and you have compulsory MIAMs, you have a requirement to consider mediation, not a requirement to mediate. A requirement to consider is obviously different. You perhaps have solicitors having to sign off to say they have done their duty before applying to court, like they do in the Irish Mediation Act. They have to sign to say they have told their clients to consider mediation. Perhaps an ethos conveyed by the parenting plan, the vouchers, the judges following through on monitoring—I am saying all of that just to say that we do not think a reasonable attempt to mediate should happen.

If it were to come in, mediators must do nothing other than say, "These people attended on such and such date—party A on that date, party B on that date," and, if they attended mediation, "That happened on this date." I think there is a Scottish law, actually, that allows mediators not to say anything more than that, so they are restricted, but we are not even keen on that, really. It does not tell you very much; it would not tell a judge very much, but neither should mediators have any role with the court to say what happens because it is also an intensely confidential, privileged process.

Jacky Tiotto: Why I said what I said earlier about possibly having offered people the opportunity, or even mandated them, to attempt a parenting together programme before the MIAM, the assessment meeting, is that a plan might be in the room and, in the MIAM, you might be able to assess the extent to which they can come up with the plan together and think about the impact of their conflict and separation on their kids. That is the bit that needs to happen earlier in parents' minds. That is just to give the context as to why I suggested parenting together before the MIAM.

Q19 **Stuart C. McDonald:** Sure. Based on what has been said, I take it that the idea of cost orders taking into account reasonable attempts wouldn't get much sympathy from this panel. Is that fair?

Caroline Bowden: When I worked in the FPRC, there were some who said that the judges have those kinds of powers already. Maybe just

adding it to the book more formally might give some sort of cultural change ethos. I certainly do not think that it should be for unrepresented litigants—who may not be able to navigate it very well—to have a cost order. At the very most, if you said that you had to do something, I would probably say for somebody who completely unreasonably decided not to attend a MIAM for no good reason, because that is a very low bar—it is just a one-off meeting. But no, no other cost orders—or nothing much more than is already very discretionary in the law at the moment.

Q20 **Stuart C. McDonald:** Finally from me, we touched briefly on the proposals for funding mediation for all children cases of up to £500. Is that sufficient to support resolution through mediation? I see a few shakes of the head.

Anna Vollans: No, it is not.

Q21 **Stuart C. McDonald:** What is realistic?

Anna Vollans: To give you some idea, £500 probably covers the cost of the first sum or all of the first joint session of mediation. On average, we work with people over three to five sessions. It could be more sessions, but three to five is very much the average. You get a sense from that that it is not going far at all, but it does mean people are willing to try mediation when they might not have been able to afford to do so before. There is a big question about funding, some of which is raised by the questions in the consultation and some of which is not. The voucher scheme does not fund MIAMs, for example. If the view was that the most critical thing is to get two people to attend a pre-mediation MIAM, should some consideration be given to funding those meetings, rather than funding the mediation? Certainly, the language in the consultation at some points is "fully funded". The £500 voucher is not fully funding mediation.

Q22 **Stuart C. McDonald:** Are you calling for funding to be for three to five sessions, plus a MIAM? You are then talking about a considerable increase. There is the argument that if you spend the money on mediation, you will probably save money at the next stage in court—you are shaking your head, Caroline.

Caroline Bowden: No, we are not calling for that, because it is a very successful scheme. It is well run, not too administratively onerous, and it is an incentive. We are not asking for that. There has been this idea that it is fully funding, but it is not. It should be index linked for inflation. There are other things that come with that. There should be legal aid. If you are eligible for legal aid, that covers the cost of both MIAMs. If the other party is not eligible, it still covers their costs and a first mediation meeting. So when you hear about the £500 costs and that the average case cost is £463, I think that is because legal aid has been excluded from that.

The legal aid for mediation is in absolute crisis. It has not changed the rate for 20 years. In real terms it is less than half what it was. I personally gave up legal aid at Christmas after 30 years working in the legal aid system, because for probably three or four years I have been

cross-subsidising with my private work. Then you have the additional burdens that are coming down the hill in terms of universal credit no longer being a passporting benefit.

What has become the MIAM is a very much different and more involved meeting than it ever was when it was just a mediation intake meeting 20 years ago. Some 33% of those involved in mediations have given up legal aid in the last five years. I don't think I have been caught by the statistics—that goes up to Christmas and I probably was not in that. A lot more are considering it, so, in terms of capacity, which is another question, if legal aid is not properly funded, I am afraid that will be a real problem in terms of our ability to provide for the poorest—those that research shows use the courts to a greater extent than those with resources.

Q23 **Edward Timpson:** To pick up on that last point around the health of the mediation sector and the effect that the Government consultation on compulsory mediation in future could have on your ability to absorb extra work, as we sit here today how would you describe the health of the mediation sector in England and Wales in terms of the level of expertise and the range of skills? Also, geographically, there might be issues from region to region and with how long people stay in the mediation world. What are the health checks that you look at to make sure that you are able to provide the service that you want to?

Caroline Bowden: I think the mediation sector is somewhat on the move. In terms of capacity, a lot of people work part time or alongside other solicitors and do some mediation work, so there is definitely an ability to increase capacity. Some people could perhaps return to it. I think there is an element where we will probably feel confident that supply can reach demand when it comes, if it comes through.

Geographically I do not think we know quite so much, but I might ask my colleague behind me, the chief executive of the Family Mediation Council, if she has any further statistics on that. Geographically it is less of a concern now that the popularity of the online engagement has taken off, which is another reason that we have more capacity. It is easier to fit in more online mediations alongside in-person ones, so I think the capacity is there.

Anna Vollans: In terms of skills and expertise, we now often see lots of people coming in from a multidisciplinary previous career. I can think of a number of colleagues who are really experienced social workers who have trained and now work exclusively as family mediators. They are brilliant to work with because they bring a skills base in terms of child protection issues and working with complex families.

We are also starting to see people choosing family mediation as a first career option, which is a big change. Historically, probably a lot of people have been solicitors—that was my route in—and then trained as mediators. The breadth of the profession is encouraging, I think, in meeting the capacity in terms of not only the numbers, but the complexity

of the work that we will be doing, particularly if we see an increase in the numbers of families coming to mediation.

Q24 **Edward Timpson:** I see a note has just been passed over. Is there anything you want to share? But do not feel you have to.

Caroline Bowden: North Wales, the east of England and the far west of Cornwall have fewer mediators, but that does match the population density. We do not have people calling the FMC to say they are struggling to find a mediator.

Nicole Jacobs: It will not surprise you to hear this, and I would say it of many frontline services. Recently, my office did an audit of the core training for any number of professionals, so while it is great to have such a diverse group of mediators, we still need to reiterate the skills, knowledge and requirements needed to deal with domestic abuse, given all the complexities we have talked about. The wider we go with mandatory mediation, the less cost-effective it is likely to be, because we will be getting into more complex cases. For families where there could be domestic abuse, we need additional support—all sorts of complexities come out. In case you need another reason why we are collectively not keen on the mandatory position, that is one.

Q25 **Edward Timpson:** May I put the same question to CAFCASS? Does CAFCASS have the capacity potentially to move into the pre-proceedings part of engagement with families, over and above the statutory responsibilities you have already?

Jacky Tiotto: We do not have any capacity to do it now, which is why I went to the second option. That is being piloted in Dorset and Wrexham, where CAFCASS applies to the courts to see the child and the family earlier in those cases where it is necessary and/or would speed up proceedings to close the case earlier. But that is obviously over the application line, so it is not pre-court any more. Moving us out of court—before court—would be even more difficult.

Q26 **Edward Timpson:** Is there any emerging evidence yet from the pilots about whether they have had the effects that you were hoping for, as well as coming to swifter resolutions for children?

Jacky Tiotto: It is still anecdotal, because the evaluation has not happened, but yes. Where CAFCASS is there earlier and the court is able to see the family earlier, there are fewer hearings and a swifter conclusion to the case. You probably know, but private law is now, on average, 61 weeks for a case. It is even more than in public law.

Q27 **Edward Timpson:** One thing we have all heard spoken about and that has oscillated in and out of policy over the past few years under different Governments is the idea of problem-solving courts, whereas at the moment the family court can be seen—whether in reality or perception—as adversarial. This might be more of a philosophical question, but with your pragmatic understanding of how things work, do you think that if that was to become more the norm, and people viewed the family court

as somewhere they could go to resolve problems rather than to have a battle, that would help some of the pre-proceedings work—the mediation and co-parenting work—that you undertake?

Nicole Jacobs: I would love to jump in. I am very enthusiastic about the pathfinder courts that Jacky just described in Wrexham and Dorset. That is essentially the approach. What is being learned in those multi-agency working provisions, which result in more important information being brought to the court more quickly and more thoroughly? It does cost, but I imagine that we will find that it is cost-effective.

Again, I do not want to prejudge the evaluation, but I have talked to survivors of domestic abuse who have been through those courts. They do not know the counterbalance of what it would be somewhere else, but they felt really well understood and heard, and that it was comfortable for their children. Also in the pathfinder courts, the voice of the child or children is considered as well. There is so much there that orients us to that less adversarial approach, which is what families need, and I think it would pay off in dividends.

In some of the discussions that I have had about the reforms that we are talking about today, people who work in this area quickly pivot to, "Let's get on with the current reforms. Let's make sure that the current processes of mediation are really safe, effective and well-funded." In other words, it is a bit of a, "Let's get back to the basics," approach before we start off on a direction of mandatory mediation and what that entails, on what would be a shaky foundation but where we have some really good green shoots that need to be invested in and really properly resourced and dealt with.

Jacky Tiotto: Absolutely, the courts could become less adversarial, but I think that, realistically, when people are arguing about their children, emotions are high. They are our most precious things, so there's a sense of "conflict is necessary". However, I think that if this consultation and future debates started with, "What does it feel like for the children?" we would stand a better chance of reducing that adversarial approach. The most effective resolution that I have seen across my career is when parents hear the impact of their conflict on the child, directly from the child, either in a letter, in the court report, or personally. I hope you will ask what is missing from this at some point. I think that the child's voice and the impact on them should be right up at the top. I think that that would help parents.

Caroline Bowden: I do not know the result or what happened afterwards, but the drug and alcohol court was deemed very effective. I also sit on the family law committee of the Law Society and, with my legal hat on, I would say that a more inquisitorial system would be welcomed, but that heavily relies on the judges, their characters and the way they handle cases, and I think that they would need root-and-branch retraining because they are so used to just passively hearing two arguments being pitched. That is totally inappropriate for families, really, but that is the way our legal system has been set up over the centuries, and something

fairly radical would be needed to make that change. Although that has happened in certain pockets, it does need a completely new approach from the judges and, I suppose, the case law on which we base our legislation and our laws.

Jacky Tiotto: Critically, a lot of family law is obviously heard by the magistracy, and their training is very different.

Q28 **Chair:** That has been very helpful. You have covered a lot of ground, and that has been very useful to us. Is there anything else that anybody wanted to add?

Caroline Bowden: We did have a couple of other things. On funding, we would have said more about the voucher. One of the questions was whether the voucher should be extended to cover finance matters. At the moment, the £500 voucher covers matters regarding children and finance if they are together, but not finance matters alone. There is a case for extending it to just finance matters, but perhaps making that means-tested—perhaps not legal aid means-tested, but there is a means testing that applies when people get an exemption from court fees.

I suppose this might follow, but, as well as legal aid for family mediation being not well funded, there is a service called help with mediation, which has been set up for solicitors but no one really ever accesses it. It was good. There were reasons why it was not used, which are probably too niche and detailed to say now, but funding is also needed to revive that and to help people in this space and getting them to where we want them to be.

Equally, as we have discussed, legal aid for early legal advice can help people, and solicitors can cover more legal advice than we can in the space of a MIAM.

Jacky Tiotto: Can I make two very quick points? One additional point is that the family justice system is not, currently, full of the right data. We don't know enough about what we don't know, in terms of the whole pre-court space and outcomes. We need to invest in that if we are having this consultation and any more that come.

The other thing I wanted to say—it hasn't come up, so I will raise it now—is that there is a need for us to consider in family justice the interface with local authority child protection in private law as well as public law. Fact finds take a lot of time in the family court. Child protection investigations take less time—there is a different threshold—but they do similar things, and I think there is some duplication that we could consider, in terms of efficiency.

Chair: That is very helpful. Good.

Nicole Jacobs: It is hard to answer an open-ended question like that, but—

Chair: We need to start wrapping it up, because we have another panel to

come.

Nicole Jacobs: We have touched on the implications of the wider reforms, but the obvious point is that the Domestic Abuse Act 2021, which created my role, needs to interface with them. Parliament's intention is to have children as victims in their own right as part of our legal definition of domestic abuse, and create an offence of post-separation coercion and control. We have to see that read-across and logic in any kinds of reforms.

Caroline Bowden: I have two quick points. In terms of mediation and mediators, we should be talking about only those who are regulated through the Family Mediation Council and not others, because only they are regulated through the code of conduct and held to those standards. Bizarrely, mediators cannot get enhanced security checks—DBS checks. That is a gap that needs to be filled.

Q29 **Chair:** Is there an obvious reason for that?

Caroline Bowden: No obvious reason. I have it because I used to do a holiday scheme, but there is no direct way.

Chair: Okay, that is interesting. Thank you all very much. It has been very helpful. We are very grateful to you.

Examination of witnesses

Witnesses: Jo Edwards, Susan Grocott KC and Dr Jan Ewing.

Q30 **Chair:** Thank you very much for coming to help us with your evidence today. Welcome. I would be grateful if you could introduce yourselves and your organisations and tell us about your backgrounds.

Dr Jan Ewing: Good afternoon. I am Dr Jan Ewing, and I am an associate research fellow at the University of Exeter. I am a past family lawyer, and for the last decade I have been researching the out-of-court space and looking at how we make it better for parents and, particularly, the children caught up in it. I have done a lot of work with Professor Anne Barlow on that. I am here today because I was an invited member of the Family Solutions Group, so I am here to speak about the Family Solutions Group.

Jo Edwards: Good afternoon. I am Jo Edwards, and I am a practising solicitor. I do cases through the court, and I am a practising mediator. I am here today with a Resolution hat on, so I am representing Resolution, the national family lawyers' organisation. I lead our family law reform group.

Susan Grocott: I am Susan Grocott, King's counsel, and I am here on behalf of the Family Law Bar Association. I am part of the committee, but I chair the Manchester branch. I have been a practitioner for over 30 years, and I have been involved in private law disputes for most of my practice, although I began in a completely different area of law.

Q31 **Chair:** Thank you very much. You have heard some of the previous panel's evidence. We have been talking about the consultation for some time. I would be interested in your and your organisations' views on the objectives of the consultation, whether it achieves them and where the idea of non-court dispute resolution—mediation in one form or another—fits into it. Is the overall objective of making early resolution a good thing? Does the consultation set about it the right way? Where does mediation fit?

Jo Edwards: Kicking off on behalf of Resolution, we absolutely support the ultimate destination of diverting more cases away from the family court. I see day in, day out in my practice the horrific impact on children in particular but also on parents of the huge delays in our system, and the statistics speak for themselves.

You can see that of the private children law cases we see, there has been a doubling in the amount of time that those cases take over a period of six years since 2016. There has been a doubling in four years up to 2022 of the number of children involved in those cases and, as I say, the impact on them of delay is horrific.

I think that where you won't hear any of us departing from each other and indeed the previous panel is the suggestion that mandatory mediation is the answer. That absolutely doesn't chime or sit well with us, and we don't think that is correct.

What Resolution would say, very briefly, is that first of all the focus on mediation in isolation is misguided. I speak as a mediator. A lot of our members are mediators, but we also practice in lots of different forms of out-of-court dispute resolution, so we would want there to be a broader focus.

The point was made right at the start of the last session, I think by the Chair of this Committee, that what is also sadly lacking is that there is no funding for any initial legal advice. That is a message that I have been making to this Committee now for around eight years and we feel very strongly that without that initial funding for legal advice, unfortunately these sorts of proposals are going to fail.

To our mind, there doesn't really seem to be a proper evidential basis for the reforms either. So, while we absolutely support the mediation voucher scheme, which has been a huge success and we support its extension, I note that the sort of proposals made here are based on only a year's worth of evaluation and it's quite a big leap to assume that the success rates seen with that scheme are going to extend to mandatory mediation.

Finally, if I may, there is a concern about practicalities, as well. We have concerns about domestic abuse—the fact that the positions of vulnerable individuals will be compromised, or risk being compromised, with these proposals. And we would also have concerns about the capacity.

There are lots of good things in the proposal, and we certainly have ideas about how things could be done differently, but I think the direction is slightly askew.

Chair: Thanks very much. Who else wants to pick this up?

Susan Grocott: Likewise, the FLBA supports early resolution. In addition to my day job as a practitioner, I also sit, so I have experience of particular cases, especially litigant in-person cases, where there aren't any legal issues and there aren't really any true welfare issues, but for whatever reason, they have come through into the court system with no real understanding.

The longer a case goes on, the more corrosive and the more divisive it is, not just for the parents but also for the children, and where you have those situations where the children are not seeing one parent, the longer it plays out the more harm that occurs and the harder it is to put that family back together again—assuming, of course, that it's safe to do so. All of our responses have the caveats that domestic abuse and controlling and coercive behaviour need a much more skilful approach than the rather blunt instruments we have here.

However, we all support early resolution. I think where the FLBA proposals would differ slightly is in relation to co-operative parenting or co-parenting information. We believe that should be mandatory and that should happen before. I will come on, when we discuss MIAMs later, to say why that needs to have a change in emphasis, because mediation, of course, is not the only game in town other than court, and if you go, for example, on the Government website you will drop down immediately, if mediation is not something you are really interested in, directly to court. And of course there are many other ways.

First, it is about how to exercise your parental responsibility, the impact on your children and all the parenting programmes. Once we have that education, it is much easier then to signpost through an adjusted MIAM to what types of out-of-court resolution you can have. And then once you're in there, hopefully all of those cases that do not actually have genuine legal issues or genuine welfare issues—by that, I mean harm issues that you would have in the section 1 checklist criteria—don't go to court.

Q32 **Chair:** In terms of the principle, Dr Ewing?

Dr Jan Ewing: In terms of the principle, the Family Solutions Group would wholly support early resolution. We think that what the Government really needs to look at much more is being much bolder about the changes that are needed. Absolutely, some families will need the support of the court, and they should have a clear route to the court; they should have it funded. If there are safety issues or any sort of contraindications, like mental health issues or substance abuse, absolutely, a route ought to be there to the court for those people, particularly to protect their children.

But in terms of why we need this early resolution, we need it because all the research says that the outcomes for children when we reduce parental

conflict are better in the long term—Professor Gordon Harold's research, and many other pieces of very good research, will point to that. If you can have a more constructive environment for the families that could resolve things away from court, that has got to have better outcomes for children, and surely our focus should be on the outcomes for those children. We would encourage the Government to be much bolder, so we have suggested in our answers to the consultation that there should be a family solutions system, so that the families that need the court are directed to the court at an early stage, and the families that may, with some additional help, be able to resolve matters away from the court—be that in mediation or another out-of-court dispute resolution process—get the support that they need.

"Mapping Paths to Family Justice", which I was involved in, showed that often mediation breaks down because one person just is not emotionally ready to engage at that time, and then the only option really—certainly in the client's mind—is to go to the court. We have heard, haven't we, about the disincentives, in terms of costs, of actually going to court, but if only we paused and gave that family some support. The DWP trialled something called Mediation in Mind, which is a project where couples were given some early legal information, some counselling support, support for their children in terms of counselling, child-inclusive mediation and some help with their communication, using some of the SPIP material. It is not surprising to find that those families who get the support that they need are the ones that can then resolve matters without recourse to the court.

But it is because we have this binary vision of, "Let's try to funnel people into mediation. If that breaks down, the option is court." It just does not work. I think the imperative for doing something is very clear from the evidence, but the approach needs to be much bolder. We need to be thinking about how we support these people so that they can resolve their matters away from court, because unless we do that, they will end up in court.

Q33 **Chair:** Thanks. There is one final thing I want to raise with Ms Grocott. Ms Edwards referred to the impact of the delays and the fact that delays in completing private family law cases have grown, and the Government says that is partly due to the pandemic. Are there other underlying reasons why it is taking so much longer to resolve private family law cases, in your experience?

Susan Grocott: On private law children, I think it is more to do with the nature of the families that are appearing. More and more, they are litigants in person. There is always a difficulty, because the triage process through an application to the magistrates court goes through a system where unless there is agreement—for example, to one parent seeing the child, assuming there are no safety features. Unless there is consent, you can then simply be set aside and have to wait to get before a legal adviser and magistrate, so there are massive, great big delays built into the system.

What was thought to be a quicker speed-through to have early directions is fine, but when it is not consensual, it then drags on. But I think most of the families—certainly probably about 60% of the families in private law children's arrangements—will simply be there because they do not know anything else.

Jo Edwards: My experience of delay is that it is lots of things cumulatively that this Committee will be very aware of. Obviously, there is the impact of LASPO, the increase in the number of litigants and persons coming into the system, and the fact that MIAMs unfortunately have not been a success in their current guise in diverting more cases. Then the pandemic hit.

There has also, absolutely appropriately, been a focus on public law children cases and trying to adhere to the 26-week rule, which you will all be aware was unfortunately successful only very briefly from when it was introduced in 2014 as an aspiration, but has then been increasing rapidly. The reality is that, in my experience, private law children work has become the poor relation of the family court. So lots of focus on the money cases, lots of focus on public law children. I can think of three instances in the last year in very difficult children cases of mine, which absolutely were appropriately in the family court and were very complex, where the final hearing was pulled from the court list either the day before or, in one instance, on the day because of lack of judicial availability. I cannot begin to describe the impact on the parents, let alone on the children on the ground. It is absolutely desperate.

Q34 **Edward Timpson:** This goes back to your last point and the comment earlier about how public and private law proceedings interact and, particularly in some of those more complex private cases, how they can be very close to the edge of tipping into the public arena but do not necessarily get the same attention. I certainly recognise that.

Can I take us right back to the very start and the point at which separating parents first think about seeking advice, guidance or help about their situation and how to hopefully resolve it? Some of you have mentioned how, both on the Government website and if you are not successful in MIAM, you are then directed to the court but also the idea of having some sort of family solution system and what that might look like. Part of the Government consultation is the consideration of providing some sort of online tool that may be the first point of contact that parents have, as more and more of us seek guidance online whether for good or ill. First of all, what is currently available that you think is helpful? If there is going to be investment by the Government in this, what would really be the things that should be prioritised, bearing in mind some of your answers around making sure that the whole suite of options out there can be made available for families dependent on their own personal situation?

Jo Edwards: One of the issues at the moment is that there is some very good information available online, but it is not very joined up, and so, if I have clients I am seeing, whether in mediation or as an individual, I will

send them off to look at the CAFCASS website, to look at the Resolution website, to look at the information that the Family Justice Young People's Board has available, and to look at other resources, including obviously the gov.uk website. But it is quite disparate.

Second point of course, I still would say that, without tailored legal information and advice and signposting at the outset—I am going to carry on banging that drum on behalf of Resolution—it is one thing to look at the information, but to try to actually apply it to your situation is quite hard. I think a lot of people, bearing in mind that 82% of family court cases now have at least one unrepresented litigant in them—that is a huge increase over the last 10 years—people might look at the information but still not quite understand how it actually applies to their circumstances.

Finally, we must not lose sight of the fact that, even in this day and age, not everyone has access to the internet. Not everyone accesses information in that way, so we need to think about how else we can get to the right people at the right time, but the earlier the better. I think, more broadly, it is important to have public education and awareness of the devasting impact on children of acrimonious parental separation. People should know about that almost when they come to have children—before they get to the point of crisis. I am involved in an initiative called The Parents Promise, which I know the president of the family division has endorsed. That is all about earlier conversations and earlier information. All of that is absolutely key, but joining everything up in one place is so important.

Dr Jan Ewing: I entirely agree with Jo on that. The evidence, certainly from Creating Paths to Family Justice, and the recent Nuffield Family Justice Observatory-funded University of Bristol research says that the information that is out there is difficult to trust. People do not know which websites are the reliable ones. They do not know whether it is just a sales pitch. "We're giving you some information, but we're actually looking for your business at the end of the day." It is confusing to them. It is very overwhelming, particularly in the emotional state that many of them are in. Because they do not know what to trust out there, the answer is, "I'll go and get some legal advice." There is absolutely a place for that legal advice, but the up-front information could be so much better.

Certainly, that is the case for parents. It is also the case for children. The Family Justice Young People's Board has said very clearly that it does not think that the information out there is good enough for them. We have done searches on clean computers that have shown that you get random stuff from America, even if you do very precise searches, so a young person really does not have a hope of getting some good information. There is a place for a trusted website. The gov.uk beta version of the "Getting it right for children" website had some good neutral information on the pros and cons of various processes, but that was never really rolled out properly. There is certainly a framework that could be built upon. Absolutely there is a place for better information, but then it really comes down to how we triage people into the right process. The information is

helpful up front. It is certainly not sufficient, but we will probably talk about the triaging in a moment.

Susan Grocott: I agree. Education is the key, as it is in most other areas. If information was regularly out there, when you went to your GP surgery and sat in the waiting room there would be a leaflet about separating and what to do. All the crisis agencies and debt agencies should also have something there, so that it is a message that people see in everyday life. The more they see it, the more it will begin to register. They may not even be contemplating separation, but they might know somebody who is. They can then pass on that information. "Oh, I've been reading about that. This is what you should do. There's a place where you can go and get that information." It begins as a conversation that happens everywhere, even in schools. It is about everybody understanding what should be happening, what can happen, or where your support will be if parents separate, so that it works for children—Jan is focusing on children—and for their parents.

Each and every day, in our daily lives, we will come across information about what should be happening. Then of course any Government website that is also leafleted at the bottom can provide the more detailed information that is needed. It does not need to amount to a great deal; it is about publicising why it is a good idea, the harm to children, and where you can get help and support.

Dr Jan Ewing: I think it is about consistent messaging. You could loop that information back to this website. In the Mediation in Mind project professionals were talking to teachers about the availability of mediation. They just said, "We come across parental separation every day, but we have no resources." It is about educating the whole public and having those sets of expectations. When I have a toothache, I go to the dentist. If I have a family problem, I go to the go-to website and I get some signposting to where I need to go. We have done some work in schools, because the Family Solutions Group saw that children were just not getting the information that they are entitled to, so we have had some lesson plans approved working with NYAS—the National Youth Advocacy Service—and the National Association of Child Contact Centres. We have had some lesson plans approved on children's rights, which include their right to have their voice heard when their parents separate. It is getting those messages consistently out to young people and parents that there is a better way of doing it, but then you have to have that better way in place for them, because if you do not have the better way in place, they will end up in court. Consistent messaging across all touchpoints is really important.

Q35 **Edward Timpson:** Thank you. Can we move on to what for some parents will be the next stage, having made that initial contact, and to some of the Government's proposals—we have touched on the mandatory element of mediation and whether there should also be a co-parenting programme—before you then move on to the stage of mediation? What are your views about how that should be handled so we ensure that we

find the right person and professional for each individual family to engage with to try to seek a swifter but long-term solution and outcome for their family and children?

Jo Edwards: On the principle, we absolutely agree. I will say again that we do not like the term "mandatory" around this. We worry about the connotations, particularly for victims of domestic abuse, who may feel compelled to go into a mandatory parenting programme. More broadly speaking, the sooner that can be attended by parents, the better, provided that it is not causing delay or further delay in any court hearings that may be needed, particularly when a child is not seeing one of their parents. The earlier that information can be accessed, the better. I agree with those who spoke on the previous panel: I do not think it needs to come before the first mediation. Ideally, it would come before the first court hearing.

The question of who might be the person who decides whether it is appropriate is a tricky one. Certainly, from Resolution's perspective, we do not feel that that can be the role of the mediator. We do not think that they should be trying to determine and ascertain the appropriateness of a parenting programme for a particular couple. I heard what Jacky said about CAFCASS, and I do worry about the resourcing issue there. It might be something that the court has to grapple with at a first hearing—being the dispute resolution appointment—to take place prior to a second hearing, so we absolutely agree with the principle. The more information that parents can be provided with, the better. Speaking from a mediation perspective, people who come into mediation with that information find it helpful and get to their resolutions more quickly.

Edward Timpson: Does anyone else want to come in on that point?

Dr Jan Ewing: On the question of "Where next?" after that initial information gathering on a trusted website, the triaging of the parents' needs is critical. At that MIAM stage, that information meeting could triage the needs of those parents and children, so the parents who need court absolutely get directed to court and the parents who need support get directed to some counselling or to mediation. The triaging, as a first expected step as we start to embed this new approach, is really important, with an emphasis obviously on safety first for children and vulnerable parents. How we get that triage set up is incredibly important.

On the parenting programmes, we would push back a little bit on the title, because not everybody can co-parent, and not everybody should be expected to co-parent, especially if they are victims of domestic abuse. Something much more neutral or a more neutral term, like "separated parenting programmes"—that is what they are—will help people to be more open to them in the first place if that term is not loaded. We would support a more neutral term like "separated parenting programmes". It should not be mandatory, but it should be an expected first step in most cases.

There may also be a need to have different programmes available for different families with different needs, particularly if there are domestic

abuse issues. Some victims of domestic abuse might benefit from some of the content in those parenting programmes, but they may well need a specialised course just for themselves. We think the programmes need to be nuanced, available at an early stage, and properly funded and regulated, but they are a good idea; they should just not be mandatory.

Susan Grocott: As I said before, the FLBA's response is slightly different. We favour the parenting programme as long as it is readily available. It would have to be online for it to be readily available; that is an essential.

MIAMs have failed; they are a tick-box exercise, although I know that people who have successfully gone through mediation are different. Because the focus is purely on mediation and not on other ways that you can potentially resolve disputes, we favour the MIAM being either a non-court processes and choices meeting, or NPC, or a choices, processes and outcomes meeting, or CPO. That would be a two-stage process, but you would have an informed parent if they had been on a parenting programme and they understand that a parenting plan may be necessary to assist, certainly in the early stages, or whatever the case may be. The first stage of the process would include all the safeguarding checks and an exploration of the issues. If the parents have no legal issues, and their welfare issues aren't to do with the risk of harm, that information should be fed to them, and as much as possible they should be steered away from a court process that cannot possibly assist them.

I say to parents, "Do you really want me to decide Christmas? You know this child better than I do," but they come to me for an arbitrary decision. I might say, "Christmas day should always be with one parent, and Boxing day should be with another. Splitting Christmas day doesn't work, because you then get a child who is all spent by 3 o'clock in the afternoon. Do you really want that?" Those really common-sense things are nothing to do with the law or the family court process. It is about having information about what the responsibility on a parent is, and then putting that into practice. You do anything you are able to do by way of directing. It may be that mediation is not the best way forward; there are other non-court dispute resolution solutions.

Q36 **Janet Daby:** I think the general consensus is that an early resolution is best; that is what is needed and required. The Government proposes that, under the new system, parties will be required to attend information meetings. Can I have your view on what you think the information meeting will be? Dr Jan Ewing, will it be the triaging that you have been talking about, or will it be something different? Obviously, in the Government's view, that will be before attending mediation, so how will that differ from MIAMs? If anyone has a view on what I just said, that would be helpful.

Dr Jan Ewing: Like the MIAM, the very first thing that has to happen is that there has to be a safety component. There has to be an assessment of the parental needs, and if there are safety concerns, the parent needs to be signposted to court, domestic abuse support or whatever support they need. Then it is a case of triaging that particular family: will that

particular family benefit from mediation? If they would, that is where they should go. There is an argument for doing that for all families, save in special circumstances.

We think there is work to be done around the language. Rather than talking about exemptions—you claim an exemption, and it is somehow a positive thing—you should refer to the special circumstances in which you might not have to have these processes. It is about triaging the needs of that family at that early stage. Everyone could benefit from that; victims of domestic abuse could be empowered by someone saying to them, "Here is some support that could help you." All families could benefit from that. That is separate from saying to somebody that they should go to mediation. That initial meeting has to be around exploring the options that are available and what best suits that particular family. It is not passporting someone into mediation; it is not the doorway to mediation. It is about assessing that family's needs at that moment in time.

Jo Edwards: From Resolution's perspective, hopefully we have been clear that we do not support the flavour of information meeting that is proposed in the consultation paper. What we would do—and I think this is where we are on the same page as the FLBA, as Susan has just said—is broaden the scope of the information meeting and broaden the possible providers of those meetings so that they could be not just accredited mediators but other family justice professionals. As I have said already, we would want it to be supported in some way by legal advice, and for there to by signposting around that.

Obviously, there should be appropriate views taken about screening for domestic abuse and assessing the capacity of the individuals involved to be able to take part in mediation or any form of DR process. We would want there to be the provision of information emphasising the importance of legal advice, and then we would want to give people tailored information about the full range of options available to them.

I was interested to read in the FLBA's paper that the information that should be provided to couples should not just focus, in a different guise, on court process when it comes to that point, but, importantly, what all the downsides of court are. I do not think that is emphasised enough. Resolution members are very careful not to demonise court, because in appropriate cases court is truly the only option. But too many couples see court as being the silver bullet, and they think they are going to win and get the right outcome for them, individually. I hope this is not a reflection of my practice, but if I ask my clients a year down the line whether they are glad they went down the court route, I think 95% of them would say, "Absolutely not," and that it had been so devastating in terms of the children, the financial cost and the impact on any co-parenting relationship. I do not think there is enough information about that either.

Janet Daby: That is really helpful. Do you have anything to add, Susan?

Susan Grocott: As Jo said, we would recommend that the downside, not just for children but parents, is emphasised at the first part of any

information meeting. Obviously, if there are safeguarding issues, it makes it a little bit more difficult. Where there are no safeguarding issues, however, we would want an information meeting that tells you what all the options are—including why going to court is not a good idea, effectively. Whoever is giving that piece of information will already know whether this is the kind of case that has a legal problem in it that has to have a court resolution, or has a risk-of-harm problem. In a sense, that meeting will support people to use whatever option suits them best. There are myriad options other than mediation that separated parents can use.

Q37 **Janet Daby:** That is really helpful. Both you and the first panel have said that you disagree with mediation being compulsory. To have a rounded answer and to ensure we have explored that fully, what impact could mandating attendance at mediation have on the outcome of cases, and, in particular, children? I would be interested in your view so that we have a rounded response.

Jo Edwards: I spent a very exciting hour yesterday reading the impact assessment on this consultation and looking through the detail, and it struck me that it feels like a bit of a venture into the unknown. It is a leap to make this assumption. Having had the mediation voucher scheme with quite significant success rates—I think 69% is the rate quoted—it is now assumed that we can translate a year's worth of data, and what is acknowledged to be quite questionable data in how it has been captured, based on about 7,000 families in only the first year, into, suddenly: "This is the panacea: if we involve £500 in a voucher for mediation for every family that needs it, it will fix everything." It might be that if five or 10 years of assessment were undertaken for more data and more reliable data, there would be a better evidential basis, but at this point, there just isn't. I have to say that.

We share all the concerns that have been articulated already. Mediation is fundamentally a voluntary process. As I say, there is no evidence to suggest that mandating people to go means that there will be lasting solutions. I suspect quite the opposite—if people go, and feel compelled to go and to reach an agreement for the sake of reaching an agreement, because otherwise they have the threat of High Court fees and costs orders being made against them, I do not feel that the quality of the outcomes will be high. I cannot help but feel that that will be the case. We also have the very important issue that we all keep circling back to of people feeling coerced into going into this because of all the conditions.

For all those reasons, much as we try to be very broadminded and we want something that will really work, we just do not feel that compulsory mediation is it.

Janet Daby: That is very clear.

Dr Jan Ewing: I agree entirely. The language that we use is really important. We know that mediation takes both parties to take part in it, and a big reason why mediation does not happen is that one person is not prepared to take part. The moment that we start to say that this is a

mandatory process, any buy-in that we might have had will just dissipate. I feel very concerned about people who are victims of domestic abuse being told that they have to go into this mandatory process. I just think it is counterproductive.

Think about the "Clunk Click Every Trip" kind of message—which was, "Please wear your seat belt. It is a safe and positive thing for you to do. There will be better outcomes for you, if only you wear your seatbelt"—versus, "Wear your seatbelt, otherwise we'll fine you", where immediately we put people's hackles up and they say, "No one is telling me to wear a seatbelt." We can message such things in a much more positive way.

We should be looking at a reframed system where there is support for people. Ultimately, parents want what is best for their children. Most parents do not want a battle in court if they can help it, but if we do not give them a supportive system to help them, that is where they will end up. Just mandating mediation is, as Caroline said, an oxymoron; it does not help the situation for anyone. The moment someone is mandated to go in, they will not go in with the right mindset and it will break down.

Q38 **Stuart C. McDonald:** On a similar theme, on the information meetings, which I think everyone agrees will be crucial, if I have understood it correctly, there is this problem with the MIAMs now in the number of families exempted and therefore not going to that first stage. How do we learn from that? How do we ensure that more families are going to that information stage?

Susan Grocott: We would say start off with the parenting information for separating parents and then change the MIAM into an information meeting with a neutral heading. It is about non-court processes and choices, so we take parents into that arena. We look at mediation as one of the options within that, assuming all safeguarding issues are satisfactory, but that is the way to engage.

All the language that we have been using probably has to change anyway. We change private-law children language periodically because it does not work: "custody" and "access" were abolished by the Children Act and then it was "residence" and "contact", but we do not do those anymore. People might see something, as there is plenty of information online that is extremely negative about mediation. There will be self-help groups that say, "You just have to say this and then you can tick the box, and off you go to court." It is about the education programme going all the way through, so that by the time you get to an information meeting you should have parents who are actually much more receptive to whatever non-court processes are available to them. It will allow whoever is conducting that session to be able to then advise them as to what is best for them.

Q39 **Stuart C. McDonald:** So the exercise around redefining who is exempt from a MIAM is not really the road to go down.

Jo Edwards: I was going to say that Resolution feels as though we have got the architecture in place; we are just not using it appropriately at the moment. Looking at the MIAM exemptions that exist at the moment—

Caroline described her work, and the FPRC's work, on that on the previous panel—is essential. Clearly, we need to narrow those exemptions—tighten them up. We would say we would need to widen the scope of the people who can offer these information meetings and widen the scope of what the meetings actually provide as well. Engaging with the respondent is going to be key. That is one of the downfalls at the moment: it can be very difficult to get the respondent to agree to come to an information meeting.

Then it is about effective gatekeeping. Again, the tools are there; it is just not happening at the moment. I know that complaint is appropriately made that in only about 35% of children cases in 2020-21 was a MIAM attended, and the question is asked: what happened to all of the others? Why wasn't a MIAM attended? We do not really have the data to explain that, and I suspect part of the answer lies in the fact that we have so many litigants in person in the system, which I have talked about already—and the stats around that.

I have to stand up slightly in defence of the lawyers here. It may be said that lawyers are not diverting enough people to a MIAM, but that is not my experience. I think there is an element, though, where lawyers have been involved. Certainly on the part of Resolution members, because we offer lots of different types of dispute resolution, by the time we come to issue a court application, a MIAM may not be appropriate because a different route will have been attempted already. But we absolutely agree that there need to be more effective MIAMs, with proper gatekeeping at the issue stage and with judges who at every stage of the proceedings are using their existing powers under part 3—at every point questioning people, "Have you been to a MIAM?", and pausing proceedings because a MIAM may become appropriate further down the line in proceedings—I think with all of that in place, we really could turn the dial on the difficulties there have been.

Stuart C. McDonald: Dr Ewing, is there anything you want to add to that?

Dr Jan Ewing: Only that if the information they have at the outset is that this is a more humane way of ensuring that your children have better outcomes, then you get some buy-in from the start. As has been mentioned, getting the second person to agree is critical, so I think it is about how we frame that offer to parents. It is also about how we fund that offer as well; the FSG would support having some sort of family aid, rather than legal aid, when we triage the needs of a family, so that if the family needs counselling support or domestic abuse support that perhaps needs to be paid for, the needs of the family are met. If you meet those needs of the family, perhaps for counselling at that stage, you get people at a point where they are so much more receptive and able—emotionally ready—to engage in a process.

It is not about spending more money; it is about spending what is already spent more wisely, for better outcomes—we might be front-loading some of that spending, for example. Obviously, it would need to be trialled. This "Mediation in Mind" kind of offer, which was just for a very small group of

people, could be expanded and trialled, and we could look at the cost benefits of giving people this sort of early help and support. That would include legal advice, because, particularly when there are financial cases, clients very often cannot make those decisions in a legal advice vacuum. If they cannot get that legal advice, where do they turn to? They turn to the court instead.

It is about getting the needs of that family met at the early stage; it may involve legal advice, when needed, or domestic abuse support, when needed; it may involve counselling. That needs to be funded by a family aid-type arrangement. Perhaps some of that work could be done within an expanded framework of the family hub, so that once people had been triaged, there was somewhere within the family hub that would meet some of those needs.

Q40 **Stuart C. McDonald:** Sure. My other question relates to the idea that at some stage there should be an assessment of whether reasonable attempts at mediation have been made by both parties. From the last panel, we heard a couple of concerns about how you would form that judgment and who should form it. Obviously, it sort of implies compulsion anyway, which everyone seems to be objecting to. Given what you have said so far, I am guessing that this panel would also criticise that approach because this should not be just about mediation but about other options as well. Please say anything you want about that. Also, people keep referring to "other options." What sort of other options should we be looking at?

Jo Edwards: Resolution has outlined lots of different process options in our response to the consultation paper. Our members practise all forms of dispute resolution, including collaborative practice, and then take their clients to some form of early mutual evaluation, arbitration and what is called the private FDR—taking cases away from the court space to have some privately funded evaluation and try to say at an early stage, "Based on these circumstances, we think that if you did litigate, this would be the range of outcomes." That gives people a good springboard to try to resolve things. Lots of different types of dispute resolution are available—again, I make the point that it is important for that to be coupled with some form of legal advice.

I think we are all on the same page about the reasonable attempt to mediate. It is so difficult for any form of information to be shared about what has gone on in mediation, nor should information be shared. It is therefore difficult for a judge to form a view.

I hope it will help if I give a quick example of where things do go wrong. I had a case in court last year. It was a slightly different scenario—we were in the court space already for various reasons and had not attempted mediation. There was judicial continuity and the judge said repeatedly, and appropriately, to this couple, "You should try mediation." So a few months down the line, they agreed to do it. In completely good faith—I still do not quite understand the circumstances—it transpired that the judge and the prospective mediator spoke to each other. I think that was

because the mediator wanted to get a bit of an understanding about what the issues were and what was keeping the people apart. Hopefully it will be understood that the minute my client found out about that, they were very concerned about the neutrality of the mediator so did not want anything to do with mediation. They were really concerned about the impartiality of the judge, to the extent that we had to ask that judge to recuse themselves from the case, which they did.

That shows the difficulties that can be created in practice if you try to bring those streams together at all; it is very difficult for clients. I absolutely understand the good faith underpinning these proposals, but any attempt to gauge whether there has been a reasonable attempt at mediation in the way the paper assumes is fraught with difficulty and would potentially compromise both the integrity of the mediation and any dispute resolution process, but also the court process as well.

Susan Grocott: You run a risk of satellite litigation within your litigation, which is grist to the mill for someone who is enjoying being in the litigation process, but it is not a good idea. So we cannot support the notion of punitive measures and investigations, not least because of the confidentiality issues, but also because you run the risk of further litigation within litigation, which takes you further away from what you are trying to achieve in terms of the resolution for children and families.

Dr Jan Ewing: That applies particularly if we are thinking about drawing from the strengths of the FDAC kind of model. Such measures just go against all that, don't they? As has been said, the confidentiality issue would be huge. The mandatory aspect would be a real problem, particularly with domestic abuse victims. So no, FSG could not support that.

Stuart C. McDonald: Thank you very much. My apologies, but I have to leave now.

Q41 **Chair:** Understood, and thanks, Stuart.

We know as a given that all of you are opposed to the idea of compulsory mediation anyway. We take that as a given. However, I got the sense from you, Jo, and no one has dissented from it, that other forms of alternative resolution are equally valid, such as arbitration or lawyer involvement in one form or another. Those things ought to be available with equal status, as a format for a couple seeking resolution.

Dr Jan Ewing: Exactly that. The point is that it is one size fits all, but people come to us with very different needs. Some have more complex needs than others, needing different types of support. We see different people at different times. Obviously, Resolution is hugely supportive of mediation—I speak as a mediator—but it is not suitable for every case. It might be that other forms of alternative resolution are.

Susan Grocott: It goes without saying that mediation fell off a cliff when LASPO pulled the rug on funding, because all solicitors were required to take their client through. Before people could get funding to issue court

proceedings, mediation would be tried. The beauty of that early and initial legal advice is that if people are not having that information coming through in an information meeting, it comes through from their legal adviser, who tells them—and sells them—the options. That all disappeared, and it was a tragedy that it did, but it was inevitable. I think we all responded saying that.

Jo Edwards: I think the statistic is a 68% reduction—

Chair: I understand where you are coming from. Jan.

Dr Jan Ewing: It is about getting the right people into the right process at the right time, and it is about triaging the need of that individual family into the right process.

Chair: We have a couple more points to make before we finish. Mr Ali is the next one.

Q42 **Tahir Ali:** My question is about the £500. It is similar to what was put to the first panel. The Government are seeking views on the £500 funding being expanded to financial remedy cases. Should the legal aid threshold apply to that? Is it sufficient?

Jo Edwards: On whether the legal aid threshold should apply, we would say no. We would like the voucher scheme to be extended to include financial remedy cases. I agree with all the points made by the previous panel on the limits of the current scheme and financial mediation. Yes, you are going to have to look at the funding of the MIAM, financial disclosure and the drafting of a consent order arising from that process. We absolutely would want to expand it out.

More broadly, I was interested by the statistics for how far the £500 voucher scheme had gone in the year of assessment that has been looked at. I think the statistic was that about a third of cases had needed more than £500, which had been privately funded. The average cost, I think, was £832 or thereabouts for those who had gone above the £500, but actually the success rate in those cases was quite a lot higher—I think a 76% success rate in mediations where they had gone above the £500, as opposed to 66% in mediation cases where they had gone below.

Resolution is absolutely realistic. We are not suggesting—nor was the previous panel—that we should therefore expect a money tree, with lots of money ploughed into this, but again I think it goes back to an assessment of what the sweet spot is. How well is the scheme working? What is the appropriate level of funding? I agree with another point made about the £500—last night, I calculated that £500 two years ago would be about £578 today. We cannot keep that at £500 and assume that people will carry on doing the work. There is a capacity issue about the proposals, which will have to be costed and funded appropriately, with a cost-benefit analysis undertaken. Equally, if that leads to lasting solutions and no court time is needed, that is an investment well worth making.

Q43 **Edward Timpson:** One of the unfortunate by-products of taking your

case to court is that there are both carrots and sticks available to judges. Before I came to Parliament, I was a family practitioner, and I can probably count on one hand the number of cases in which there was a cost order; it was mainly in financial cases. In the consultation, there is a suggestion that if a party fails to make a reasonable attempt at mediation, the court could take that into account when deciding whether there should be a cost order. In reality, is that likely to make any difference, inasmuch as a judge will already be weighing those things up, and is highly unlikely to make a cost order in a family dispute involving children? Or do you think that it is potentially a helpful way of bringing parties to a point at which they engage with the process? I put that as neutrally as I can.

Susan Grocott: It is not helpful at all. There will be the odd case in which a cost order is entirely appropriate, and there will be parties who can fully pay those costs—that might be the reason why they were being difficult about whatever it may have been—but you want to take the adversarial nature out of any private law children proceedings. If costs are on the table, or are mooted or mentioned as a potential stick, that will make it worse, because that will be something else that a party is defensive about.

This is about reducing defences, so that the focus is on the children, as opposed to the litigation. It is hard to describe, but it becomes a completely different entity when parties are in the throes of protracted litigation. Every waking hour is devoted to saying something else horrible about their partner. It is all about upping the ante; the parties need to get evidence, so they do things such as record their children when they have asked their children questions. They do all manner of things, because of course evidence is extremely important if a judge is to weigh what is going on.

Anything you can do to dampen down the enthusiasm for that litigation is good. I am sure that parents did not intend to do these things—as Jan says, most want the best outcome for their children—but they get caught in the cycle of proceedings. You should not really be introducing matters that make parties look for more evidence, more ways to fight or complain, or more ways to challenge the process; it is the outcome that the court is all about.

Jo Edwards: Your question was about children cases. In many cases, judges have the tools at their disposal already. They have part 28 of the FPR. If, for example, somebody is not negotiating reasonably, and there are open offers made and it is clear that one party is not engaging, there is the wherewithal to make cost orders. Resolution and most practitioners would agree that in appropriate cases, they should be made more routinely, and that maybe further judicial training around that is needed; perhaps there should be an expectation that the judge has to say something in their decision about why they have or have not made a cost order. In children cases, though, we completely agree with what was said in the consultation paper: cost orders are too blunt a tool. I have fairly recent experience of a cost order in a children case, and I have seen the fall-out from it. It would be unfortunate if there was any assumption that

in children cases, a good way to compel people to go to DR—as we have said, that should not be happening anyway—is through the use of cost orders.

On fees, you will be unsurprised to hear that neither I nor Resolution think that fees are the right way forward. That would have a disproportionate impact on the most vulnerable. I spoke to this Committee in 2015 about the impact of increasing the divorce fee. Cumulatively, a person has to pay up to £1,100 if they issue a divorce application, a money application and a children application. That is already costly, and fees are not the way to deter people from bringing applications. These are life-changing matters, and it is a life-changing transition that couples are going through. I absolutely agree with the consultation paper: there would need to be proper scoping, and proper exploration, of the likely detrimental impact of further increasing already high court fees.

Dr Jan Ewing: Susan referred to clients upping the ante and saying unhelpful and unkind things about their former partner. Some of that comes about because the court becomes a container for the emotion of the breakdown. Often, a controlling person enjoys further control through ongoing litigation. Would it not be much better to take some of that away at an early stage? When we evaluated the "Mediation in Mind" project, a person I spoke to who had been through the pilot said to me, "I had some counselling, and I got all my anger out there, so when we got to the mediation, we could just deal with the practical stuff." But of course if some of that anger does not come out in counselling, or in some other format, it comes out in the mediation, and the mediation breaks down; or it comes out in litigation, and we have seen the outcome of that.

Is not saying, "Here is a better way of doing it, and we will fund some of it," a much more humane way of dealing with family breakdown? The Government have to be bold. They should take this chance to say, "We're going to reimagine this, and think about how we can do it better. We have finite money; let's spend it better, on better outcomes, by getting early resolution, and getting people the early help that they need, so that we can keep out of court those who can be kept out, and free up court space for people who desperately need it."

Edward Timpson: I could not agree more.

Chair: Indeed. That is a good note to end on. Thank you all for your time, and for your evidence to us today. We are very grateful to you.