

Justice Committee

Oral evidence: [Reform of the Family Court](#), HC 1420

Tuesday 28 October 2025

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Members present: Andy Slaughter (Chair); Josh Babarinde; Matt Bishop; Pam Cox; Linsey Farnsworth; Warinder Juss; Tessa Munt; Mrs Russell; Dr Neil Shastri-Hurst; Tony Vaughan KC.

Public Accounts Committee member present: Anna Dixon.

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Witnesses

[I](#): Dame Nicole Jacobs, Domestic Abuse Commissioner for England and Wales; Jacky Tiotto, Chief Executive, CAFCASS; Lisa Harker, Director, Nuffield Family Justice Observatory.

[II](#): Sir Andrew McFarlane, President of the Family Division, Judiciary of England and Wales.

Examination of Witnesses

Witnesses: Dame Nicole Jacobs, Jacky Tiotto and Lisa Harker.

Q1 Chair: Good afternoon. Welcome to this afternoon's session of the Justice Committee on reform of the family court. I am going to ask our first panel of witnesses to introduce themselves briefly, but first the members of the Committee will make any declaration of interest they wish to make, starting with Linsey Farnsworth.

Linsey Farnsworth: I am the Member of Parliament for Amber Valley. Before being a Member of Parliament, I was a Crown prosecutor for 21 years. My interests are declared in the Register.

Warinder Juss: I am the Member of Parliament for Wolverhampton West. I am a member of the GMB Union Executive Council and a member of various APPGs. I am a solicitor, although not practising at the moment.

Matt Bishop: I am the Member of Parliament for the Forest of Dean. My previous career was as a police officer, and my other interests are as declared.

Pam Cox: I am the MP for Colchester. My interests are as declared on the Register. I would just add that I am the chair of the APPG on Penal Affairs.

Chair: I am MP for Hammersmith and Chiswick. I am the Chair of the Committee, a member of the GMB and Unite trade unions, a non-practising barrister and the patron of two justice-related charities: the Upper Room and Hammersmith and Fulham Law Centre.

Mrs Russell: Prior to my election I was a solicitor specialising in employment law. Relevantly for this, for many years prior to me qualifying, I was a secretary in a family law department on and off, supporting both private and public family proceedings. I am a member of various trade unions and my interests are per the Register.

Tessa Munt: I am the Member of Parliament for Wells and Mendip Hills. I am not a solicitor or a barrister, but I have a particular interest in WhistleblowersUK, all of which is declared on the Register, and I am the vice-chair of the penal affairs APPG.

Dr Shastri-Hurst: I am the Member of Parliament for Solihull West and Shirley. I remain a registered barrister and an associate tenant at No5 Chambers, and my interests are as declared on the register.

Tony Vaughan: I am the MP for Folkestone and Hythe. I am a barrister, associate tenant at Doughty Street Chambers, and I still hold a practising certificate.

Josh Babarinde: I am the Member of Parliament for Eastbourne. I am not a barrister or a solicitor, but I have an A-level in criminal law. My



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interests are as declared on the Register.

Anna Dixon: I am the MP for Shipley constituency and a Member of the Public Accounts Committee. Given that the Public Accounts Committee recently considered the family courts, I am guesting on this Committee just for this session. The only possible relevant declaration is that my mum was for many years a magistrate in the family courts and is now retired.

Q2 **Chair:** Thank you very much. Can I just ask our witnesses just to introduce yourselves very briefly to the Committee, starting with Jacky Tiotto?

Jacky Tiotto: I have been the chief executive at CAFCASS since 2019.

Dame Nicole Jacobs: I am the Domestic Abuse Commissioner for England and Wales.

Lisa Harker: I am the director of the Nuffield Family Justice Observatory.

Q3 **Chair:** Thank you all very much for attending. I will begin just with a couple of framing questions. The family court has undergone reforms in recent years aimed at tackling delays and improving the experience for its users, some of which we will be discussing today. Could you briefly set out how you think the family court is currently performing in this area? You do not all have to answer each question, and I am happy to leave you to sort out who goes in which order.

Jacky Tiotto: I will start on that. Thank you for the question. The family courts are struggling. It might feel difficult to revert to covid, but we are still recovering from the slowdown that took us to something like 55,000 children in the system; we are sitting at 44,000 now. We have no less demand than we had before covid, in fact it is on the rise. So the fact that we have improved performance on delay is something to be positive about, but there are a number of issues that we need to think about that we will probably talk about today, including the experiences of children and families in the family justice system, and how we move to the intended reforms.

Lisa Harker: Just to add to that, there have been recent improvements in terms of delays, but the system is under immense pressure. I would say, though, that performance in the family justice system is almost entirely measured in relation to timeliness. That is a problem in itself, in that we do not have a way of measuring whether the system is effective in terms of improving children's lives or really understanding the experiences of parents and children.

Dame Nicole Jacobs: I would have said something similar. I can add that I published a research report a couple of weeks ago, and I am sure we will go on to talk about it. I will pick out many things I want to tell you, but one of the startling statistics in it in relation to this was that



30% of the volume of the cases we were able to look at were returns to court. That gives you some indication of what is impacting the court in terms of pressure and volume, if matters are not resolved or are ongoing and more protracted.

The other thing I am sure we will go on to talk about is the reforms, which you are probably already aware of. The Pathfinder courts create more pressure on the system at the start. They pay off in dividends, but we should be cautious before we prioritise them as an efficiency model. They are meant to be improving the way the court understands and addresses domestic abuse, as Lisa said. If a by-product of that is that they are more efficient and have that impact, that is wonderful, but the primary measure we should be looking at is the quality of the work in those courts.

Q4 Chair: Just sticking on timing for the moment, a question primarily to Jacky, though anyone else can feel free to answer it. Following the 2014 Norgrove review, over a decade ago now, a 26-week time limit was introduced for public law cases, which has never been met. The mean disposal time in the first quarter of this year was 39.6 weeks. Why is that 26-week target so difficult to meet?

Jacky Tiotto: There are a number of reasons. First, about 35% of cases in public law at the minute are concluding at 26 weeks, which is a good way ahead. In public law proceedings, there are many reasons for delay, notwithstanding the fact that social workers are difficult people to find and keep, and if a social worker changes in the middle of a case, it creates delay.

People try to take a lot of care around the decision to remove a child from their parents, so experts are instructed and that is another reason for delay. In many of those cases family members to care for those children are identified late in the day, and the proceedings are slowed while those assessments happen. Everybody tries to find those family members right at the start when proceedings are issued, but often that does not happen. There are many intentions in the system to try to change that—including the DFE reforms that are on the table now in the House of Lords—around identifying kinship carers much earlier, but we are a bit of a way from achieving that now. On top of the capacity in the system, there are some understandable reasons why people try to get this right, and that involves delay.

Lisa Harker: I would just add that there are many different reasons that may contribute to delay, as Jacky says, and she mentioned some. There is also obviously, capacity of the court, availability of expert witnesses, and so on. We struggle with having a really strong governance structure to be able to solve those problems at a local level. They are not things that can be solved by pulling levers nationally on their own, they also need very strong local governance, and that is lacking in the family justice system at the moment.



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Q5 Anna Dixon: Just picking up the point about governance, the Public Accounts Committee concluded that the current arrangements for family justice are complex. Many organisations are involved, but they are non-accountable for overall performance. At national level there is the Family Justice Board, which does not seem to have met very consistently. There is obviously an equivalent at the local level, but with no direct accountability. I wondered if you could just elaborate about how you think this complexity of governance impacts on court performance?

Lisa Harker: First, we do not really have a strategy for the family justice system—a set of clear objectives that everybody buys into—it is a complex system involving lots of different public services. There is no one body that holds that strategy and holds the system to account. We also have two Government Departments that have responsibility for children who come through the family courts, and they are not working together very closely to solve some of these issues.

As you say, the Family Justice Board has not met very regularly and does not have a clear strategy. Local Family Justice Boards are not on a statutory footing, so there is no compulsion to attend them; they are not very well resourced, there are some excellent examples and there are some very poor examples. But in order to have a system where you have strong local governance arrangements to resolve some of these issues around delay and other aspects of challenge to the system, you would need to put them on a stronger footing.

Q6 Anna Dixon: Is that what you would be recommending?

Lisa Harker: Yes.

Q7 Anna Dixon: For the other witnesses, what are your thoughts about what needs to be done to address this fragmentation in governance? Are there other solutions that you would be proposing? Jacky, do you want to go first?

Jacky Tiotto: I agree with all the things Lisa said. The old adage that what gets measured gets done is an important one here. Following the Public Accounts Committee recommendations, we need to sign up to a strategy; the Family Justice Board has said it will and is intending to prepare one. The board does not meet when Ministers change; we are going to meet again in December with new Ministers, but there has been a churn.

However, we first have to get around the reasons for delay and target them. There are six or seven key reasons, and I have set out a few of them here. We have to performance manage where those delay factors are evidenced. They vary across the country: in some places there are no social workers, in other places it is court capacity, and in others it is the practice in local authorities. Whatever it is, we need to target it specifically. The only mechanism we have at the moment is LFJBs, because we do not have any wiring into those local places except through that system.



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If we do not formalise the governance I cannot see how we are going to be able to target performance. The alternative is to have a leader of the family justice system, and with the president sitting behind me I do not like to say who that is. If you do not have a leader, it is hard to know how you are going to get the change that you need. We are working together, but it needs to go faster.

Q8 Anna Dixon: It sounds to me that, given the geographical variation, the reasons for delay differ so you would also be advocating strengthening the local Family Justice Boards.

Jacky Tiotto: If it is formally possible, yes.

Q9 Anna Dixon: In response to the Public Accounts Committee, there is a suggestion that we come forward with a plan. What should be in that plan? Dame Nicole, do you have any thoughts on this?

Dame Nicole Jacobs: I agree that a plan is needed. My opening comments were much more geared to private law proceedings. There is some learning there, in that within the Pathfinder courts you have an intentional coming together, a co-ordination and some investment, and that is what is absent in most other places.

I tend to prioritise going to Family Justice Board conferences as I am very intensely interested in this area. I have gone to local meetings, and in fact the last one I went to was in the CAFCASS main building. If I could describe what you see there: there are system leaders around a table, but with very loose direction most of the time, often spending their own time and energy. In terms of the practical problem solving that would be required, there is quite a lot of variance, in the way that Lisa describes. Very often it feels like people are volunteering their time above and beyond, and that is not a way to co-ordinate and problem-solve through these issues.

It is absolutely true that local Family Justice Boards need more input, direction and resource, and so on in order to engineer some changes and improvements. That just simply is not in place. Although Family Justice Boards meet—and some are clearly better than others, as Lisa said, having observed in quite a few—a lot of the chairing of that board and the people who are doing the heavy lifting in terms of reform will be on a basis of just putting your hand up, not necessarily the strong, clear direction and programme of change.

Q10 Anna Dixon: We may have already touched on the long waits: these cases that are delayed over 100 weeks. Obviously, the Family Justice Board set some ambitious priorities for 2024-25, including reducing the number of cases open for over 100 weeks to zero, both private and public. You mentioned the 4,000 children who are waiting in cases that are open for over 100 weeks, so was it the right target? If not, what should be the target? Given the conversation you have just had, how do we get the Family Justice Board's targets to actually have teeth locally?



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Jacky, do you want to briefly come back on that?

Jacky Tiotto: Thank you, and if I could come back to the strategy as well, in a minute. But on the 4,000 children, it is now 2,000, which is secure progress.

Anna Dixon: Okay, I will take that.

Jacky Tiotto: I was just reflecting on Lisa's point of whether timeliness is the right measure. Until we clear enough children out of the system and the long-running cases, we cannot even begin to be more ambitious, so sticking with those priorities that the board has is right. It is right to say nothing over 100 weeks, and in fact go to 90 because that takes you to a better place. We have to push harder and further, but again, it is regionally variable.

Requesting evidence of progress and improvement priorities in the places that are doing better or less well is an important addition to the target. We are intending to go hard on the places that are doing less well for whatever reason, not a judgment.

On the strategy, we have to start with what are the outcomes we expect in family justice for children and for their parents. It is a worry that we have a system that does not know what happens at the end of proceedings, because we invest a whole public service architecture behind it. Nevertheless, it would take even more resource to establish what those outcomes are, because for CAFCASS, we finish when the court case finishes. We do not know what happens to the kids unless they come back. It needs thought and resource, but it is important for us to consider why we do not know what happens, and as Nicole said, 30% come back, which is a huge number.

Dame Nicole Jacobs: I would just add, having recently visited the family drug and alcohol court in Birmingham, some of these ways of working are originally funded through the Department for Education and the MOJ, and then it becomes the local authority cobbling together funds—I use that term on purpose—to carry out ways of working that may not meet timescales, but the sense of quality is, by all measures, improved.

In terms of driving from the centre, I feel that that area remains quite neglected. Should we not be learning from these efforts and supporting them? I believe they are essentially quite cost-effective. It was quite shocking to me to realise that these courts—particularly in Birmingham—had original seed funding, but then were really struggling to maintain efforts beyond that time period. That is not a way to strategically fund good work.

Anna Dixon: We will probably come back to that.

Q11 **Tessa Munt:** I am moving to early intervention. The previous Government had a consultation supporting early resolution of private law



family arrangements. That Government also said they wanted to work to make pre-court parenting programmes the norm. I was going to ask you a little about the reforms that are under way, and what pre-court parenting programmes are available now?

Jacky Tiotto: That is outside of my remit, but I will have a go. There is a range of mediation schemes. There is obviously the Government-funded family mediation voucher scheme as well, which is designed to incentivise mediation. We offer all parents the Planning Together programme, which is an intended co-operative. How are you going to tell the court that you are a co-parent, technically, if it is safe for that to happen? That is not the case where domestic abuse is a factor, known or reported, we do not recommend.

The range of provision is not necessarily an issue; certainly for CAFCASS, 60% of our private law applications are exempt from a mediating opportunity because of domestic abuse. That is difficult of itself, because you are straight into the adversarial court space. I am not sure if there is a better answer on the table for parents who are trying to make arrangements for their children where domestic abuse is known. That has to be in the court space. For me the issue is still how you narrow the front door into court so that people can co-operatively resolve matters for their children? The provision is there; it is whether it is taken up.

Lisa Harker: It is worth remembering that only an estimated one in 10 of separating families come to the courts. The majority do not, and we know from all the evidence that parents prefer not to and try to resist coming to court; it is the step of last resort. As Jacky says, mediation rates do not seem to have increased despite the voucher scheme, because it does not seem to be appropriate for the families that are at the court door.

What we do not have evidence of but we need to understand better is what is available at a much earlier stage for parents. This is where other Government Departments have a role to play—DWP and DFE as well as the Ministry of Justice—in thinking about it much earlier in the process, at the point of separation, which is a long process. People do not turn to the court until they absolutely have to.

Q12 **Tessa Munt:** Do you have an idea of the non-court options?

Lisa Harker: There is no information that we can turn to that tells us what is currently available, and that is the case for parents too. When you are separating, you only find out by asking friends or family. There is no one-stop shop to tell you what is available. That is something which the Ministry of Justice said they would try to have a look at and think about setting up some sort of website for parents. That has not happened yet. No, there is currently nothing at all.

Q13 **Tessa Munt:** Can we pick that up, Chair? The Children's Wellbeing and Schools Bill provides for family group decision-making meetings bringing



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together family members and professionals so they can make a plan in response to concerns about a child's wellbeing. They are meant to be a gatekeeper to care proceedings. Is that what happens, and do you think it is effective? Are they likely to reduce the number of babies being made subject to care proceedings at birth?

Lisa Harker: The evidence around family group conferencing, which is a particular model that comes from New Zealand, is very good and strong. It results in more children staying at home with their parents, or remaining in care for a shorter period of time.

The concerns about the measures in the Bill are that they do not specify the process in sufficient detail to match the quality of family group conferences. They leave that to the discretion of local authorities. I know there are a number of amendments that have been put down to try to strengthen those provisions, which would help to ensure that the quality of what is offered to families at that stage meets that standard.

Jacky Tiotto: To add to that point, the principle is a good one, because families can and should come together around children, but there is currently a risk that the child protection issues that are around for those children at the time that you are about to issue court proceedings might just fall off the radar. At the moment there is a determination to divert those carers into private law, away from public law. If they come into private law now, they will come into a system that is delayed. Very young babies cannot be in that situation, and neither the parents nor the child are represented in the same way that they are in public law, so there are some protections that need to go around that principle if it becomes statutory.

Dame Nicole Jacobs: I am one of the people backing one of those amendments in terms of the Children's Wellbeing and Schools Bill, and I feel very strongly about this. I understand the quality of the evidence backing it, but if you are a victim of domestic abuse entering into systems that you are perhaps not familiar with, and you have never had exposure to some of this interaction, first, we cannot assume that someone would say, "I am a victim of domestic abuse and I need you to understand that." In fact, that would be somewhat rare. Very often adult victims have a high expectation that everyone around them understands domestic abuse and what you should safely do, but sadly, that is not always the case.

They will accept, "I am meant to go to this family group decision-making, everyone is expecting me to do that. I do not feel safe in this situation. I do not believe that I am able to be as forthcoming about my concerns as I could." Then you feel it is almost a system-induced risk if those things are not dealt with. So, it may be wholly appropriate for some families, but there have to be safeguards for victims of domestic abuse. There may be some people who say, "No, I feel fine with this process, this is okay." But the choice, the explanation and the understanding of the safety have to be there. There have to be some safeguards so that we do



not have this expectation that it is a one-size-fits-all. That has to be made clear in these reforms. I am afraid it just will not work for everyone, and we have to understand that this could create more problems. There is also so-called honour-based abuse where you have wider family members. We have to be very aware of these kinds of things before we have such a high expectation that family group decision-making would be appropriate in all cases. That needs to be made clear.

As Lisa said, the way the legislation is currently drafted is that there is a lot being put into, "Oh, we will sort that out in guidance." That is not appropriate for a system where we know that at least 60% of the volume of concern will relate to domestic abuse, so it is core business and we have to understand and build the system around that knowledge.

Q14 Josh Babarinde: I want to ask a little more about the family group decision-making meetings, and we have discussed what some of the merits are or could be of those. There will be some families where domestic abuse is taking place and that domestic abuse is present in the running of those meetings, and people have expressed concerns around that. Do you share some of those concerns, and what can local authorities or anybody else do to help make those meetings safe?

Dame Nicole Jacobs: Beyond the legislation, there has to be high-quality training and support for social workers, or anyone participating in those meetings, so they feel confident and able to understand domestic abuse well. Having that independent advocate for the adult victim is really important so that they have an avenue to share concerns and have someone who might stand alongside them and say, "I want to help voice these concerns," if needed. I was speaking to the Minister this morning about this very thing. Having some very clear water between the understanding of what is going on, the point at which you have a choice, and if you are able to raise concerns is important. This is how adult victims often feel swept into systems where they only look back and think, "Had I only maybe drawn a line here or there, but I did not feel like I could." So it is just making sure that we have those safeguards, parameters and safety issues flagged and baked into the process. Thank you for asking.

Jacky Tiotto: If I could add one last thing, local authorities are highly skilled at dealing with children in the child protection system. The family group decision-making conference is an intention to try to engage members of the wider network for children to avoid care. That is explicitly what it is, and it is a good principle as long as all these arrangements are clear in guidance. If "Working Together to Safeguard Children" is rewritten—which it is going to be—that is the statutory set of rules that a local authority has to follow. It should be very clear about what happens to the adult and the child victim in that conference and where the perpetrator is or is not in those arrangements. They do that now in child protection conferences.



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My issue is that they are doing that very late. If you are doing it at the point you are writing a letter to parents to say, "We are really worried, the risk has not gone away, we are going to remove your kids," everybody is up on the ceiling at that point, and it is quite hard to manage. As I have said on record before, that protection needs to be put in much earlier, for me that is the key.

- Q15 **Anna Dixon:** May I come in with just a very small follow-up on this? I was talking to the grandfather of Star Hobson; people will know the tragic case in Bradford, where a child was murdered by a cohabiting partner of the mother. Obviously he was not involved in the discussions about child protection. I just wanted to ensure that these early conversations will involve grandparents. The intention of the family group decision-making meetings and the model that has come from abroad, as you understand it, would actively engage grandparents and seek to go beyond—in this case—the person who was perpetrating the domestic abuse, to try to get some independent adults involved who also know that child. Is that the model, and will grandparents be actively involved?

Lisa Harker: That is exactly right, when it is done well. It is not just grandparents but aunts and uncles, and a very thorough job is done to look at the whole extended family network. But this is all about nuance as the answers to the questions suggest, and we do not want a system that has forgotten about extended families for a long period of time to then lurch towards insisting that all children look to extended families. The point is that it is going to work in some cases, but not in others.

- Q16 **Mrs Russell:** To pick up a point you made that is really important, Jacky, you said you were concerned about a risk that babies are essentially going to get lost in this system, or that there is a risk around that.

Jacky Tiotto: Yes.

- Q17 **Mrs Russell:** Could you expand a bit on that?

Jacky Tiotto: It is a worry, and not a known issue, but I have run a local authority before and putting a family group conference together is difficult. When there are very young babies, there may be three or four of those family group decision-making moments across a period of three months. For very little children who need primary attachment and who are already with a carer, that just needs to be thought through, including if the decision of that family group decision-making conference is that granny will be the carer, then she is going to have to be in a process to become that special guardian. If it is not in public law—in the reforms it is not intended to be—and it is in private law, it needs to be fast-tracked so that those children have permanence quickly, rather than getting caught in a process that does not have any structure around it. So there needs to be a child protection plan and a fast track into the family court: out and done. I do not know whether you say it is for under-ones or under-fives, but that is what I would be worried about.

- Q18 **Mrs Russell:** Does that fast track exist at all at the moment?



Jacky Tiotto: No.

Lisa Harker: Can I just also add that a lot of those families have already had a child taken into care; the level of recurrence is really high, so for many of those families they will be known to the local authority and will have had a lot of practice. I take your point about the need for avoiding delay and needing to move quickly when you have young babies, but it is often the case that the family at the centre of the child protection concern, and the wider family, should be well-known to the local authority for a long time before that point.

Q19 **Mrs Russell:** One of the things that I remember seeing when I was working adjacent to this area—I do not pretend to be more experienced in it than I am—but it was children whose parents had had one, two, three four, five or six children taken away previously, and there was still an assumption that that child was going to essentially remain with the family and see how it went, albeit with court and social work supervision. I know you have said that you have concerns about the evidence base around families, Lisa. Do we have evidence on that, and do you have views on it?

Lisa Harker: We have published research about the extent of recurrence; I should say it is really high in public law care cases. We have recently published research which shows that if a mother has had a child that is taken into care and then goes on to become pregnant, one in two go back into care proceedings, so that cycle of repeat care proceedings is making up a lot of cases in our family courts.

There is also some very good evidence about how to support families in those situations and how to break the cycle of recurrence. To your question, there is good evidence that you can help a family to care for a child when they have previously had children taken into care. But what we have at the moment is a system that is focused on removal of the child, rather than support for the family that is left behind. That is what we need to shift, and it is one of the things I would advocate for a KPI for the system. We should start measuring recurrence as a KPI for the family justice system.

Chair: We need to move on. Pam Cox.

Pam Cox: That was going to be the last of my three questions, but since you have led us into that, thank you, Sarah.

Mrs Russell: Sorry.

Q20 **Pam Cox:** No, you are quite right, breaking the cycle of recurrent care proceedings is vital. It falls between every crack in the system, and it is not a measurable KPI. I was personally involved in designing measures that could capture the effectiveness of efforts to break this recurrence in my previous career as an academic.

We know about the Pause project that was rolled out by the DFE to many



local authorities, and about many other local authorities and charities that had projects locally. We know that there is a community of practice that has developed to support those groups, and that for every pound invested in working with a family to prevent recurrence you are saving money for the system. So what is happening with that now, where are we at? Are those surviving services safe, or are they at risk? What do we need to do next?

Lisa Harker: They are at risk. There are small-scale services that are reliant on short-term funding, and they are doing great work with small numbers of families. The community of practice gives them a chance to share their knowledge and swap their experiences, but we do not have an infrastructure in the country that supports these services, which is a concern.

I absolutely feel that this is an issue that falls between the cracks of services, as you say, but at every stage of the process, services have a role to play. If a court has agreed to a care order, the judge should next be asking about the support that is available to the family. If the local authority should be following up with that family, there should be every effort to ensure that there is not this repeat cycle. However, because we are not measuring it at the moment, it is not something that we are holding the system to account over.

Q21 **Pam Cox:** I remember over a decade ago when the hope was that when pre-proceedings came in and every family had a right to pre-proceedings, it would follow that every family would have a right to post-proceedings of some kind, which became known as measures to avoid recurrence. So are we no further along, 10 years on, in developing a statutory right for parents to post-proceedings?

Lisa Harker: The data shows that we are at the same level of recurrence that we were five years ago, so it has not been—

Pam Cox: And a third of the cases are recurrent cases, so this is something that MOJ and DFE really need to look at again I would say. I see a lot of people are nodding.

Dame Nicole Jacobs: Absolutely, depending on the circumstances. It mirrors very much what you see for wider domestic abuse services, of which some might be wholly appropriate in these instances as well. But you often have national funds which will start something, and then there will be an expectation at the local level, despite it not being apparent that it is true, that somehow MOJ or DFE will continue to fund. There is no real strategic planning at the local level or a cascading of what the responsibility is and how this will stay and continue; it becomes a muddling of trusts, foundations, a bit of local authority funding and this kind of effort to survive for these services.

The irony is that they are very impactful and effective, as Lisa said. We need a much more strategic way of funding those services, but I would



say it is true of the whole of domestic abuse services, full stop. They are not a statutory duty, and therefore the minute there is constraint at the local level there is quite a lot of salami slicing, frankly. What it means is as much as they make progress, they will then take one step forward and two steps back because they are having trouble retaining staff and maintaining the service provision. Many victims of domestic abuse and others who are subject to care proceedings say, "I had a huge amount of attention, and then it all dried up."

Q22 Pam Cox: Then it stopped, yes. With the Chair's permission we might write and follow up on that, just to check where we are at nationally. I have two other brief questions. One is around Pathfinder courts: from your perspective are they making a difference to families experiencing domestic abuse and to the children involved in those families? The second is around FDAC, but let us go with Pathfinders first.

Dame Nicole Jacobs: We talk about this subject quite a lot. I am very enthusiastic about Pathfinder courts and switching over to private law proceedings. The research I recently published shows that upwards of 90% of cases in the everyday business of private law proceedings have aspects of domestic abuse.

Pathfinder has created a much more realistic methodology to understand the context of the family and of each child early, and there is a domestic abuse assessment carried out, which is really critically important. That puts a lot of pressure on CAFCASS and others in terms of that front-loading work. But in my view, it is the way you would design a system that is meant to have knowledge in front of decision makers as early as possible, so that things do not become so protracted and prolonged. You do not have, as we have seen in many courts, concern about domestic abuse and counter-allegations raised where, because we have not invested in that kind of knowledge at the start, we focus on the child and the child's voice at the start, and things become much more confused. I believe that it is a better way of doing things. I have a concern that we do not think of it as the kind of end-all and be-all; it needs to improve as it goes. We have Pathfinder fully implemented in a handful of sites and have a planned roll-out.

But again, this is the kind of thing that is so important we need to make sure we are resourcing it properly and learning as we go. I would like to apply the same methodology that researchers used for the report I just did, which by the way were not Pathfinder sites—there were two courts in England, one in Wales—but we now understand a bit more about that methodology of how to go into court without it being disruptive. That should be applied to Pathfinder sites so we can learn as quickly as possible.

There are lots of other issues. They do not involve what we see a lot in terms of financial remedies. There is a real siloed approach between these proceedings and financial remedies, so it does not cover everything, but I think it is a very important step forward. The president



should be commended for leading that, and for the transparency he has given us, which allowed my office to have it in the research that I published. However, I always end with this: I have huge concern for anyone who is in family court in terms of what we know of domestic abuse being minimised and sometimes overlooked and children not being heard; you can see all that in the report. So the planned roll-out, scale and resource needed for Pathfinder is an urgent issue.

Q23 Pam Cox: The family drug and alcohol Court problem-solving court has very robust data, to my mind, showing its effectiveness. Where are we at with plans to roll out FDAC more generally?

Lisa Harker: FDAC is another example of an initiative that depends on small pots of funding year to year, and the energy and enthusiasm of a small group of people who are prepared to get it off the ground. The number of cases that FDAC is dealing with is still very small, but the evidence base is really very powerful and strong both in terms of the chances of a child returning home and the savings to the court in terms of fewer hearings.

It is a very important example of the role of the court in ensuring that families have an opportunity to change at every stage—including at the court stage—and using the power of the judge to ensure that the family has a chance to really participate in that process fully. So it models a way of doing justice that is very popular with families and very effective in its impact. Yet, at the moment it is just reliant on small pots of funding and the enthusiasm of a few people.

Jacky Tiotto: If I can just come in on FDAC, I agree with everything, but it is time to nail our colours to the mast. We have a system proven to improve outcomes for parents and children; the answer is money, and there is not enough to go around. If we are going to have FDAC, we need it everywhere, not just in some places with people cobbling together money.

It is the same on Pathfinder. If you are going to have specialist domestic abuse provision supporting the courts, then it needs to be baked into the budget and resource that are coming down the line. It is not the model of the court that will sort the experience of children and victims out; it is the quality of the risk assessment that goes on to present advice to the court. CAFCASS has a role to play in strengthening that, doing more and better, and that is what we want to do, but it is only possible to assess children if you see them, which is why we need the change to Pathfinder. We only see 30% of kids in the current system, because we are not able to see more.

Q24 Linsey Farnsworth: I mentioned I was a former Crown prosecutor, so it probably will not surprise you that I really want to delve into domestic abuse situations and the interplay of those situations with the family courts.



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My first question is for Dame Nicole, if I may ask you about coercive control. I am aware of concerns that perpetrators of domestic abuse often use the family court as a vehicle to weaponise the court process as a means of coercive control post-separation. Can you explain how the courts are used by perpetrators in that respect?

Dame Nicole Jacobs: The courts are used in a variety of ways. I have been to conferences in the last few weeks where there are a lot of barristers and lawyers who work in family court, and they use the term tactics. The most common tactic employed by representatives of the perpetrator when domestic abuse is raised or explored is a counter-allegation is made, often using some kind of term like parental alienation, and essentially saying, "Well, this is only being raised because you do not want me to see the children."

Where Pathfinder helps with that, as Jacky said, is that if you can talk to the children, you understand whether their reluctance, refusal or resistance is based on the fact that they are victims themselves. Understanding what their context is goes a long way, but what has been happening for many years—and it is very well documented in a number of reports—is the dynamic of using the court in this counter-allegation. I speak to victims all the time who will say that they have been dragged back to court over and over, and so it looms large. It is not uncommon for me to hear someone say, "It has taken 10 years of my life, always kind of looming, thinking when will we be back in court again to change an application or to vary arrangements?" All of that just creates enormous stress for the child and the adult victim, and that is the most common starting point.

There are lots of ways we can do this better. For example, one of the by-products of Pathfinder is that in doing that assessment, adult victims have interaction with local domestic abuse services in their area, as Jacky mentioned. They are then usually much more aware of the kind of support that they could have. There is also quite a common dynamic of people representing themselves. Cuts to legal aid mean that litigants are coming to the court representing themselves and obviously finding it much harder to navigate some of these tactics used, and the court itself. So victims very often get lost and, sadly, further abused by systems which are really not understanding, or offering those routes to support and help early enough.

Q25 **Linsey Farnsworth:** That is really worrying to hear, but from my experience in my past life in the Crown court it is not surprising. It has been five years since the Harm Panel report, and you have mentioned the Pathfinder Courts. I am just wondering what other progress the family court has made since the Harm Panel report came out to change the way it approaches domestic abuse within the family court setting?

Dame Nicole Jacobs: I feel like I have said most of my thoughts on Pathfinder, but I am very enthusiastic about my interactions with CAFCASS Cymru and CAFCASS in England which, in both instances, have



revised their domestic abuse best practice guidance. CAFCASS has best practice leads who I have met and spent quite a few sessions with. These are all things that I feel are really important and impactful. I have seen quite a lot of local Family Justice Boards host conferences on domestic abuse, maybe for the first time ever, which is quite surprising but sometimes that is the case, bringing together all the players, local solicitors and a whole range of people and sometimes interacting with domestic abuse services in their area for the very first time in those conferences.

There is some really interesting work going on in relation to taking some of the Harm Panel recommendations and localising what that could look like. There are some Family Justice Boards that have linked with trusts and foundations, and have really tried to localise and implement improvements in their own way, regardless of what is happening with Pathfinder, MOJ or anyone else. I know victims would say that this has taken too long, and it has been frustrating. I certainly speak to victims who feel their lives have been badly affected; destroyed is probably not an exaggeration for some people I have spoken to.

Despite all that, it is difficult for me to answer the question in a very black and white way because I am also very aware of the changes, which show effort, acknowledgement and the need to change, move forward and improve, and that is exactly what we need. I can see both sides of it. We are not there yet by any stretch, but have a look at my research, which is a fairly recent snapshot: we are not there yet, but we have made some real strides.

Last week the Government announced that they intend to change the presumption of parental involvement, in other words, rightly focusing on the welfare of the child with the legislation in the Children's Act, which prioritises the safety and welfare of the child.

Q26 Linsey Farnsworth: Hopefully we will shortly come on to that in a little more detail, but it is good to hear the progress that is being made. Your recent Family Court Review and Reporting Mechanism pilot recently found that the structural barriers identified by the Harm Panel remain. I have heard you talk about some of the barriers this afternoon, for example resources. Would you say that those sorts of structural barriers remain despite the work that is going on to improve things generally? If so, do you think that the roll out of Pathfinder courts will address that adequately?

Dame Nicole Jacobs: I feel that some of those structural barriers are very persistent. In terms of thinking about systemic change and how long that often takes, it should not surprise us. Any time I speak, I always remind everyone that we had our first refuges 50 years ago; none of our systems were built with a very good understanding of domestic abuse, or certainly not a shared one, so we should not be surprised when we see these structural changes that are needed.



We are making some headway, but we have to keep at it. I believe in Pathfinder. To the extent that the best systems change, some people say they want to train it into people. People really change in their day-to-day life—I certainly have—when I am working within a system that I feel is doing a good job and really meeting its aims.

Pathfinder allows people to feel that they are doing a better job, which creates change. It is different than sitting in a training room and saying, “You ought to do this,” and then you enter a system that does not quite work in that way. One of the greatest concerns I had about this recent research was this persistent notion that domestic abuse is in the past and historical. You hear this a lot in some of the quotes in that research. It is not unusual for me to talk to older survivors who will recall what they felt with great emotion, having been raised in a family where there was domestic abuse and it has obviously impacted their entire life, so they feel very strongly. The notion that somehow, if the physical violence or the absence of someone in your life for a relatively short period of time means that in court it is considered historical, is still a huge problem for children. That is why we must tune in and have the ability to get to know the child, as Jacky said, to understand the impacts and their view, get beyond some of the labels and really understand what any kind of reluctance could be about. We really owe it to them because these are life-changing decisions that courts are making.

Q27 Linsey Farnsworth: Still on the topic of relationships, can we talk about the alienation of a child, and perhaps I can bring Jacky in on this as well. Where there are allegations of one parent alienating a child from the other parent, in both your experiences is the court able to assess those allegations fully and respond to that behaviour appropriately at the moment? If not, how would you like things to be improved in that respect?

Jacky Tiotto: Our policy and position on alienating behaviours, when it is alleged in a set of proceedings, is to first question why a child might be refusing to see another parent. Is there domestic abuse or another form of harm such as sexual or physical abuse? That is the starting point for us with that child. If our assessment is that those other forms of harm are not present, then we ask why the child would not want to spend time with a parent. There are situations where parents are in conflict, and one parent says horrible things about the other and influences the child. That happens in many cases. What we have done to strengthen the position, so it is not used in proceedings inappropriately, is to start with domestic abuse.

Family court advisers are required in the policy to ask, “Why does this child not want to see this other parent?” We choose to resolve conflict and arrangements for children in this country with their parents through the family court, whether that is the right situation or not. Other countries do other things, but we do it in the family court. It is an adversarial space and the court has to decide whether to do a fact find in



those cases, which will create delay and slow the whole system down, or not. Those are difficult decisions to make. We have to be thoughtful when helping social workers decide whether or not to recommend fact finds—when they should and should not—for the court to then make its decision as to whether or not it was a reasonable piece of advice. In cases that require that allegation to be investigated, there should be a fact find. Where alienation and domestic abuse are in the same conversation in those proceedings, the only way to investigate is for the social worker to put their advice to the court, and the court to have a fact find.

Q28 Linsey Farnsworth: I do not envy you and your colleagues for having that task. It is an incredibly complex situation, particularly with what we have discussed about the domestic abuse relationship setting as well. When I ask this next question, I am conscious that Dame Nicole mentioned the pressure CAFCASS is under generally and resource-wise. In relation to the Harm Panel, which criticised CAFCASS in relation to its approach involving domestic abuse, I am wondering what your response was. Have adaptations been made? Has there been progress following that panel report?

Jacky Tiotto: I arrived shortly after the panel reported and it was a tricky time. We have taken in and thought about the criticisms. We have made some changes. Our sense of ourselves and our practice is that things have improved. Domestic abuse is a national priority for us; it has been for four years. We have a Domestic Abuse Learning and Improvement programme. We introduced a new policy last year, and again earlier this year, in an attempt to clearly set out what we expect family court advisers to do. It is a tricky balance because the advisers are appointed by the court. They are employed by CAFCASS, but they are independently appointed by the court to advise the court. We set out requirements in policy that they are now expected to follow. I cannot quite reveal the result because we have just had an Ofsted inspection on the same and the report is not yet published. However, there is evidence that our policy is improving practice, particularly reporting very explicitly to the court what victims are telling us, whether before the first hearing or in the work after the first hearing.

The position we have taken is that if you have a known criminal history, served a prison sentence, there is a police report, or you are being investigated for a violent or sexual crime then we will assume that you are an adult of significant risk to a child and will advise the court how we have assessed that and your suitability to have contact with your children. That is a position we have set out very clearly, which our advisers have found helpful. We are not taking away the authority of the court to make the decision, but we are saying very clearly, "This is this person's history. This is what the police have said, regardless of whether there is a conviction or not." So we have tried to be more explicit about violence and harm in family life, and we now have an expert panel of people with lived experience who advise us, including two secondees from SafeLives who work with us to improve practice. We are travelling in



the right direction but I would not want anyone listening to think I am saying we have sorted it because we still have not. It is a tricky business.

Chair: It is frustrating because this is all valuable evidence but we are going to have to go considerably quicker if we are to cover all the topics we have to deal with. I do not want to constrain anybody but can we all bear in mind the time limits and that we have votes. Josh, did you want to come in on this?

Josh Babarinde: I do not have any more questions.

Q29 **Matt Bishop:** Dame Nicole, you briefly mentioned the presumption of parental involvement. The Government, after lots of campaigning from colleagues across both Houses, announced last week that they will repeal the statutory presumption of parental involvement. What are the panel's general thoughts and comments on that? Is it going far enough?

Dame Nicole Jacobs: I welcomed that announcement. It will not alone remedy all the issues we have raised today, but it sends a strong message and signal that the safety of children should be paramount. I believe most actors in the family justice space fully understand that, but it is true that we still have some dysfunction or issues arising and it is an important signal to send.

It will not be as impactful if we do not start to address other issues that we have talked about today: the cultural changes needed. We have not talked much today about legal representation and the impact of legal aid cuts. There is a qualified legal representative scheme, where people are representing themselves, which does not work incredibly well. There are a lot of ways in which the court needs focused resource improvement.

So much in the Ministry of Justice is overshadowed by our criminal justice system and what we hear in the news or the media. We need Ministers within the MOJ to feel how equally important these issues are. Decisions made within the family court have lifelong impacts and the attention and bandwidth within Government needs to reflect that. I do not believe it currently does.

A lot of the wheels in the system are not getting the attention that they need. It does not all hinge on one decision; it is about many different things. Everywhere I go, every judge I speak to, and at family justice conferences I ask this question: how much is the presumption overriding in the front of your mind? It is very difficult. It is not written down. It is very hard to evidence but I believe it shows a clear direction that will be impactful.

Lisa Harker: I will be quick. I completely agree. The evidence is clear about what matters to children. We have published evidence looking at what kind of contact with family matters to children in terms of their wellbeing. You cannot have a one-size-fits-all approach. You have to have



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a child-centred approach. That is the paramount principle and we should stick to it. I agree with everything Nicole said.

Jacky Tiotto: If we asked 100 people on the street whether children should be involved with their mums and dads if it was safe for them to do so, most people would say yes. However, the legal overlay of presumption that we had made it more complicated, so it is a welcome change to go right back to safety and welfare and ask if it is right or not.

Q30 **Matt Bishop:** One quick follow up, if I may? One of the biggest campaigners, Claire Throssell, sadly lost her two children to her ex-partner. With this change in the law, do you agree that it is potentially going to save children's lives?

Jacky Tiotto: I would not sign up to that statement. CAFCASS welcomed it because the path is clear to assess safety, welfare, and the best interests of children without having something that says prove otherwise because the presumption is that the child will have both parents. What will save children's lives is for people to stop being abusive to their children. If the quality of the social work assessment stands alone for the court, which is not a science but a professional judgment, rather than legal professionals saying that something has not been proved to be good for the child, then there will be a clearer conversation between the social worker and judge.

Dame Nicole Jacobs: Claire Throssell is an incredible campaigner and has been through the loss of Paul and Jack. What she has been able to achieve is incredible. It is about the whole systemic approach and cultural change, all those things together. Essentially, that is what she means when she uses those words. She should be very proud of the 11 years of campaigning that she has put in to spearhead that change.

Q31 **Josh Babarinde:** It is about domestic abuse in the family justice system, but I will move slightly away from the topic we have just explored. For some time, in the family court a finding of domestic abuse could be made. For some time, I have been campaigning for something equivalent, or with an equivalent impact, to exist in the criminal justice system. We have that in the Sentencing Bill, which is fantastic. We will be voting on it again tomorrow. I wondered if there were any pitfalls, or at least learnings, from the way in which the finding of domestic abuse happens in the family court that we need to apply to the criminal system?

Dame Nicole Jacobs: I welcome that work. It will be pivotal, especially the sentencing reforms with not only more community-based sentencing but also recall and early release measures. We will be able to have a system that can identify domestic abuse related crimes, which it currently does not. I am pleased and thank you for that.

One thing that applies across all matters within the justice system is the inability for us to understand if something is proven versus the system having to assess whether the victim is indeed a victim without having



used those words and not being based on any past known history or a history where the victim has not asserted domestic abuse. That remains really difficult, probably on the criminal side too. People could be convicted of something altogether different who also happen to be a perpetrator of domestic abuse. People do not understand that or know those risks.

One common impact from the criminal justice system into the family court is where there has been a no further action. Five out of six victims will never have called the police, and many who do, do not receive a charge or conviction based on that call. There is a lot of no further action. If you bring that into the family court realm then it is perceived as there being no evidence, and that works against victims in those circumstances.

We have a high expectation that somehow there will be "evidence" but this is not the case which is why we depend so much on assessments within the Pathfinder court model, the domestic abuse assessments, and the work of CAFCASS. We have to become more confident that we can make these assessments and understand when we do not have the luxury of that evidence.

Jacky Tiotto: False positives or negatives from definitive findings, whichever way around it is, are a risk. They inform, but if there is a finding of nothing, then that does not mean it is safe or secure. You basically have to carry on assessing; you do not take that as a line.

Q32 **Mrs Russell:** Jacky, in terms of the digitisation of the family courts and the court system, the private family law programme was only rolled out in March 2025. In terms of both public and private family law proceedings, how is the court's computer system functioning?

Jacky Tiotto: That is slightly outside my sphere of expertise so I can only talk about our experience of the portals. We have the public law portal up and running. It had a difficult birth but is there or thereabouts. However, when the system goes down, we stop receiving applications, so digitisation is not always an answer.

Q33 **Mrs Russell:** How often does the system go down and when it comes back up, do you have them or are they lost?

Jacky Tiotto: They are not lost. I do not know how often it happens because I do not always get told, but it recently happened for two days and applications did not come to us. When the system wakes up again, we get a rush of applications which is mostly manageable in public law because the volumes are a bit lower. We do not have a private law portal yet; it is in test. People have some concerns about whether it is ready to be implemented because the plan is for March next year. We are expressing our needs and concerns about it, but it is being tested in four courts at the moment with variable results.



Dame Nicole Jacobs: I wanted to add that the research report I published has a recommendation where the legal academics have kindly set out clearly the data points that need improving. They have gone through some 300 cases, observed in court the methodology they use, and learned quite a lot about what is not there that should be there. Please use that as a blueprint for what needs to be included in the reform and data sets.

Lisa Harker: Can I raise a concern about that? At the moment, there is no join-up between this collection of useful data and a strategy for how it is going to be used to help the system understand its performance. It is difficult to see how this new modernisation programme results in better KPIs for those working in the system, or indeed for the public to be able to see what is happening.

Q34 **Mrs Russell:** This may not be within your sphere of knowledge, but do you know if there was a plan for how the data outputs would be used?

Lisa Harker: If there was one, it has never been shared with us. I suspect there was never one.

Q35 **Mrs Russell:** Can I come in briefly about the single unique identifier for children contained within the Children's Wellbeing and Schools Bill. How do you expect this to impact the family justice system, if at all?

Lisa Harker: It could be helpful in terms of being able to link data. What we do not want to do is ask professionals in the system to collect and record more data; they are already under huge pressure. A single unique identifier would enable data to be linked, with appropriate permissions obviously. It is some way off in terms of how long it will take for it to be implemented. We have not even got it through Parliament yet, but it does promise to make things easier in the future.

Jacky Tiotto: If CAFCASS is to be involved, and we have asked to be included in that developing scenario, then it would be good. The benefit for us is being able to see the checks that are run by the police and local authorities more quickly than we can at the moment. We ask 152 local authorities and however many police forces for their information and it takes a variety of days off the case right at the start. If we were able to access it, with the appropriate safeguards, then it would be really good for families. We are a long way away from that.

Q36 **Anna Dixon:** I am conscious that we are keeping the president waiting, so I am going to make sure it is punchy. You will be pleased to know that the Public Accounts Committee has asked specifically that we get a joined-up data and evidence strategy within six months, with all the various parties working together on that. Given everything you have said, and all the reports over more than a decade setting out the gaps in data, other than a more comprehensive set of demographics, which we will take as a given basic need, what would be your top pitch as to what KPI or bit of data you think is most important when it comes to outcomes, as



you have all talked about the need to move away from timeliness to outcomes? Can each of you please pitch for what you would like to see in the evidence and data strategy?

Lisa Harker: In terms of outcomes, we need to move towards a measure of children's wellbeing which we do not have currently in the system. In the interim, as a proxy measure, I would like to see recurrence measured in public law cases. I would also add that we need to look at inequalities because, for example, we do not currently explore racial inequalities.

Anna Dixon: Hence, I said basic demographics are a given. Dame Nicole Jacobs?

Dame Nicole Jacobs: I agree with that. Some of these things interrelate but we do not have the ability to know right now how often domestic abuse is raised as a harm. We know a harm has been raised as per the system, which is why we had to go through the methodology we have in order to produce the recent research report. It is about understanding that but also the outcome and decision so that we can start to understand, when certain things are raised, what the outcomes and decisions made are. We do not have the ability to do that easily, if at all.

Jacky Tiotto: I would like us to measure the extent to which children feel their wishes and feelings have been taken into account.

Chair: Thank you very much for attending. If you wish to stay for the second part of the proceedings, you are welcome to sit at the back. Votes will be coming slightly later, so I will not break now, if you do not mind changing panels in the full glare of the camera.

Examination of Witness

Witness: Sir Andrew McFarlane.

Q37 **Chair:** Good afternoon. I apologise for the interruption and for starting late.

Sir Andrew McFarlane: I was enjoying it all in the back row.

Chair: It is kind of you to have observed the first panel as well. Everyone knows who you are; if you are content, we will move straight into the questions, starting with Mrs Russell.

Sir Andrew McFarlane: Yes, I was here when you all introduced yourselves.

Chair: If there is nothing you want to say in introduction, we will start the questions.

Q38 **Mrs Russell:** There has been discussion in the room about the impact of recent reforms to the family courts and the impact of delays in both public and private law cases. What are your reflections on the various initiatives and reforms implemented to address delay in the family



courts?

Sir Andrew McFarlane: That is a big question. We have come a long way; the delays were at a higher level for public law. You all correctly quoted that we have never reached the 26 weeks, but we have come very close to it. The target began in 2014 and in about 2015-16 we got close to it, which was astonishing.

I was one of five people on the Norgrove committee, and the only lawyer. We looked at the delay—the average was 61 weeks when Norgrove met—and we put 26 weeks in our recommendation, thinking that by a statutory instrument over a course of five or six years it might be ratcheted down to 50, 40, or 26, but the Government quite understandably said, “No, we will go with that”, and they implemented the 26 weeks.

We invented a structure—the Public Law Outline—to cut the number of hearings and reach that target, and we got to a national average of 28, 27 weeks in about 2015. Then in 2017-18 the volume of new applications suddenly rose by about 25%. My predecessor Sir James Munby called it the “Care crisis” saying, “We don’t know why that’s happened. We don’t know what to do about it” because we were already running at capacity. I will not go into the reasons, but it was basically austerity; resources had been reduced for social workers to do anything else but come to court, and that was the result.

Then covid hit and the backlog went up to about 13,000 cases, while the time taken for cases went up to about 46 to 47 weeks. Since 2022 or so, we have been trying to pull the thing back, and we are very much in the right direction of travel now; nationally, it is down to 34 weeks, and many areas are at or near 26 weeks. In London and the south-east, it is a much higher figure.

So, what are the causes, and what are we doing about it? After covid, I understood from everywhere I went that people had lost any connection with 26 weeks. They were just doing the cases, and delay had become normalised. It was untenable because the delays were getting worse and worse; in family cases involving children, more stuff would happen, and by the time the case came to court, they would say, “Oh, since the last hearing this has happened and you have to assess it.” I felt we needed a wake-up moment, so in January 2023 I relaunched the PLO and said, “Look, we know this works.” Everybody got the message, and that is what has been happening since. I relaunched the relaunch last autumn just to reinforce that message. We have very few levers, but we are trying to make every hearing count and to keep the hearings short.

Similarly with private law, the volume went up after legal aid was largely removed, because litigants in person were not meeting solicitors who would say, “Come on, you don’t want to go to court about that.” The public perception may have been that lawyers were generating the work, but statistics show that it was the other way around.



Again, during covid, many private law cases were generated by the circumstances of covid; that number has been harder to reduce, partly because we cannot engage with people who come to court for a private law application until they have issued their application. We can talk to local authorities in public law cases, and try to change their behaviour, but in the end, we are reliant on measures from Government to provide support, information, education, and mediation for separating parents so that they do not think they need to come to court. That will get the volume down, and it is a work in progress.

Q39 Mrs Russell: There are so many things that could be unpacked there. I do sometimes worry that we are talking in quite dry terms about highly vulnerable children. In relation to London and the south-east, what is the cause of the ongoing delays?

Sir Andrew McFarlane: There is no single cause. We are under-resourced in the London and south-east courts, particularly with judges at the district judge level in the south-east doughnut around London. That is not so much a problem in London, where it is partly due to the number of court rooms available. Obviously, that limited resource is very vulnerable if the volume goes up. We have the same number of people, the same number of CAFCASS officers and social workers, but in London—I have spoken publicly about this—a culture has developed of allowing cases to drift, and in particular they have moved away from having the same judge at every hearing. It is hard to have continuity with the judge, but it pays dividends.

In November last year, we launched a bespoke strategy for London, imaginatively called the London strategy. The aim was to deliver a rather unpalatable message to the professionals there, saying, “Look, everybody, what you’re doing is out of kilter with the way things are done elsewhere.” People have listened; the judges particularly welcomed the fact that someone had said that. The focus now is to drive numbers down, and the figures for London are beginning to move in the right direction. It is regrettable that the penny dropped only during the course of last year that the problems in London were partly a behavioural and cultural thing rather than simply due to the volume of work.

Q40 Mrs Russell: What is the vacancy rate for judges doing this sort of work in London and generally?

Sir Andrew McFarlane: I do not think it is such a problem in London. I am happy to give you the actual data, but I think we are about 20% down on the number of district judges. Whenever there is a competition—that is what it is called—to recruit more district judges, there is also a competition to recruit more circuit judges. A proportion of the new circuit judges are district judges, so you are putting people into one bucket while the other bucket is being emptied at the same time; it is a game of catch-up. We rely a lot on fee-paid judges, and they of course can decide whether to accept the invitation to sit.



Q41 Mrs Russell: You talked about the relaunch of the Public Law Outline, including the case management outline to encourage parties to meet the 26-week deadline. In practice, how has that been working outside London, or is it just less necessary there?

Sir Andrew McFarlane: The figures are showing that it is all coming down, but in the last three months, we have observed that the volume of fresh applications for care orders has gone up about 10% to 15% across the country. Again, we do not know why that is; anecdotally, local authorities report that the volume of referrals coming in the front door from schools, police or members of the community has gone up at the moment, and we see a proportion of those moving through into care proceedings. Apart from that, it is working well.

There is a tight group of key designated family judges at the 42 centres around the country, including London and the south-east. I am regularly in touch with them, and they are in touch with each other. We share all these messages together. If someone has developed particularly good practice in an area—Coventry was a recent example—they will share that. So, we have all become more connected and we are looking to work together and learn from each other. It is one of the positives of covid that people meet up more regularly now in our non-system and that is very helpful.

Q42 Mrs Russell: Are checklists the right method to improve timeliness?

Sir Andrew McFarlane: These were the checklists that were piloted by the DFE but it has stopped piloting them, as the view was that they did not add particular value. My view was that the checklists were fairly straightforward and being given to professionals who ought to be thinking these things through anyway, so I was not surprised that they did not significantly change behaviour; we should support good practice more generally, without adding another piece of paper to be put through the system.

Q43 Tony Vaughan: Would it be possible, Sir Andrew, to go back to your point about the lack of district judges? I was quite struck that you said the numbers of district judges in the south-east is down by 20%. You referred to the simultaneous recruitment of circuit judges and district judges; I wonder if there is any other aspect or any other relevant dynamic going on that is relevant to that lack of ability to attract full-time district judges?

Sir Andrew McFarlane: That is an interesting question, and one which the Lady Chief Justice is probably better able to answer. It is something that the Chief Justice and I, as a head of division, have been looking at over the years. It is due to a complicated set of consequences, including alterations to the judicial pension scheme, the payment of expenses, and the fact that quite a few fee-paid judges now have a portfolio of fee-paid appointments. They will not necessarily just be a deputy district judge,



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they may be at the mental health tribunal, or part of the wider tribunal process. Being a part-time judge can be a nearly full-time occupation.

But the question of what might attract them to become a full-time judge is one that needs to be asked. It is a hard job being a district judge. You are at the pinch point of the whole system; I am very grateful to those who want to be district judges, but it is not necessarily a career choice that everyone would make, whereas it might well have been 20 years ago.

- Q44 **Dr Shastri-Hurst:** I just want to pick up on that point again. Does the fact that there are insufficient district judges available to do these cases influence how the gatekeeping mechanism is done across different regions and how cases are allocated, whether to magistrates, district judges or circuit judges, because of that pinch point you have described?

Sir Andrew McFarlane: The absence of salaried judges in any particular place is made up by having the fee-paid judges come in, so inevitably, each week a different person occupies that chair. I do not think it alters the gatekeeping, because that tends to be done by just one or two individuals who always do it in particular court centres, plus the legal advisers who are salaried. It may alter the allocation; it goes back to what I said earlier about putting the case into the list of Judge Bloggs, so that it always stays with Judge Bloggs. There may not be a full-time judge; that alters the case's life after gatekeeping but not necessarily the choices that are made at gatekeeping, if that makes sense.

- Q45 **Dr Shastri-Hurst:** It does. I just wondered whether those resources would influence where those cases would be allocated further down the line?

Sir Andrew McFarlane: I do not know, because sitting at my end of the tube I do not get to see that, but it would not surprise me.

- Q46 **Dr Shastri-Hurst:** Have there been any studies looking at the decision making of those individuals?

Sir Andrew McFarlane: I have not seen any.

- Q47 **Pam Cox:** We were talking about the relaunch of the Public Law Outline; I remember the first one. Is there a space in any further iteration of the Public Law Outline to include a requirement for an offer of post-proceedings engagement to be made to parents, or is that not the place to do it?

Sir Andrew McFarlane: The three previous witnesses did not give any answers that I disagreed with. I was entirely pleased by the questions you asked there. The Public Law Outline is the in-house case management system for cases before they finish; they are not to do with post-proceedings engagement.

Something that was not mentioned—I suspect you will know about it—are initiatives like Pause, which is funded by some local authorities. Pause will



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engage with a mother after the end of the proceedings and say to her, "If you pause having more children, if you agree to go on to slow-release contraception, we will work with you to address the problems you might have with drug or alcohol addiction, relationship issues, domestic abuse and so on." The success rate of Pause is very high; women who have been able to turn their lives around during the pause go on to have children subsequently and may even be reunited with children who have gone into care. I am a great supporter of that sort of initiative.

FDAC is the same idea carried out live during the currency of the court case, but it needs resources from local authorities.

Q48 Anna Dixon: Sir Andrew, you mentioned the designated family judge approach. I understood it to be a pilot, or were you suggesting that it is now usual business?

Sir Andrew McFarlane: I may have confused the issue. Every court has a designated family judge who is in charge of the family business in that patch; that has always been the case. What I said was that they are even more in touch with each other now, and they share good practice.

Q49 Anna Dixon: As I understand it, there has been a pilot where these designated family judges are operating with delivery partners to do a deep dive analysis.

Sir Andrew McFarlane: That is Trailblazer. There are so many initiatives, but I think that is the one.

Q50 Anna Dixon: Yes, that is the one. There is also Pathfinder, but I am speaking about Trailblazer. You will have heard from our previous witnesses that there are many different reasons for delay; you have touched on some yourself. Could you just reflect on what has been successful about that pilot, both in terms of identifying delays and addressing them?

Sir Andrew McFarlane: If you are interested, it is worth looking at the Trailblazer report. There were five areas in which they were particularly involved, and they also engaged with another 10 or 15. There were different problems in each of the different areas, or the same problems which were more acute in some areas. There is no one-size-fits-all. I am sure the courts they visited benefited from having problems unpicked and identified and then addressed separately, because if you are running an organisation and are in the middle of just doing the day job you do not have the headspace to do that. So, it was very useful that that happened.

In the end the message was pretty simple; it was to keep the cases short. Delay is the enemy of any litigation, but for children it is appalling because it is another period of time when they are in limbo and these issues are not resolved. As I have said, often the problems can become more acute, so it is important to address the causes of delay and shine a light on those.



What would be useful is to go back to the areas now, a year later, to see whether lessons were sustained and pennies that dropped remained dropped. But it was a good thing to do, and again Trailblazer has shared that report with all the other DFJs and has spoken at the conference I have with the DFJs, so bit by bit this learning is coming through.

Q51 Anna Dixon: We heard from our witnesses about problems such as needing to get repeat expert input. You mentioned that some of the delay is due to legal aid cuts, and more people effectively representing themselves. I am guessing that not all of those issues are within the control of a designated family judge. What are the other sticking points that need to be addressed that the Trailblazers identified but could not deal with?

Sir Andrew McFarlane: I would have to go back to the Trailblazer report. That is a question about what it did not deal with compared to where we are now—

Q52 Anna Dixon: But do you have any insights yourself?

Sir Andrew McFarlane: There are old problems. In public law cases, the local authority issues its proceedings because it has a view of the case. It may or may not have undertaken thorough assessments of why it has that view. Certainly prior to two or three years ago it was the norm that the court would say, "Right, this case has started, we will need a psychologist, a hair strand test," and whatever else in terms of new experts coming in for the first time. Because of the volume of cases, the number of experts is limited, and they can dictate the timetable to a degree, so you immediately go into delay.

Three or four years ago a group called the President's Public Law Working Group—another imaginative title—identified that it would be a game changer if all local authorities conducted thorough assessments in cases which were non-urgent, in other words, cases about children who are on their books and who they are worried about but which do not have to come to court today.

The assessment would be carried out so that they understood more clearly why they were worried, whether they were still worried, and to look at other options rather than coming to court, so that they only came to court when they really needed to. We saw a drop in the number of applications after this, and in terms of assessments, the court application was then match fit for the court process.

The other part of that balance was that I was very plain with the judges that they should not automatically order fresh experts or suck air through their judicial teeth and say, "Why didn't you come six weeks ago or two months ago," because the local authority had spent that time in reconnaissance. That has made a real difference both in terms of lowering the volume and shortening the hearings, because unless there is



a really good reason, the parents and CAFCASS cannot expect to have a fresh expert brought in.

Q53 **Anna Dixon:** Does continuity of the judge play any role in this?

Sir Andrew McFarlane: It does; that is the golden model. It is more easily achieved in the smaller court centres where often there is only one or two judges, but in the bigger centres it is very difficult to achieve.

Q54 **Anna Dixon:** Do we have data on how many cases actually do get continuity?

Sir Andrew McFarlane: I am sure we have, but it does not come across my desk.

Q55 **Mrs Russell:** In terms of that, what percentage of part-time judges are working on these public law and private law children cases currently?

Sir Andrew McFarlane: The public law cases are fewer; they tend to be done by full-time judges. I would have thought that probably 25% are part-time, but that is a finger-in-the-wind figure. Most will be done by the full-time judges, partly because the cases are allocated on the digital system to a particular judge.

Also, the way the model works is that the case comes in and there is a hearing in the first two weeks to set it up. The only other hearing that should take place is an issue resolution hearing late on in the 26 weeks when the judge eyeballs everyone and says, "Do we really need to decide this issue? What is the position on this?" The final hearing should be relatively shortly after that.

Our experience is that, if you have the same judge, who says, "Right, if we're having a hearing, we will have it in six weeks' time and I'm going to be the judge," that concentrates minds much more clearly at the issue resolution stage.

Mrs Russell: You think private law children's cases—

Sir Andrew McFarlane: It is private law where, I am afraid, we see more of the negative lack of judicial continuity. That is partly due to human nature; if you are litigants in person and you are getting a different judge every time, then you try to tell your story again.

Q56 **Tony Vaughan:** I want to talk about early intervention. Just picking up from where we left off on private family law, you have said that change in that area is your principal priority. What specific changes do you think are needed in relation to that, and how are we getting on with implementing those changes?

Sir Andrew McFarlane: This is well-trodden ground, and if you are interested it is all set out in a report called "What About Me" which was published in 2020 by the Family Solutions Group, a subgroup of the President's Private Law Working Group. "What About Me" sets out all the



interventions that ought to be in place to support couples when they split up and need help in resolving issues about their children.

I was very pleased that when Dominic Raab was Lord Chancellor, he accepted that this was well-trodden ground and that the Ministry of Justice had never actually engaged with it. He consulted on a range of about 10 or 12 elements of this catalogue of interventions, and the previous Government published their response to that, "Supporting Earlier Resolution of Private Family Law Arrangements" in February 2024.

There you will see a list of things: improved information; a neutral, authoritative, detailed web presence on www.gov.uk; support and guidance—partly going into family hubs which MPs will know are in a lot of localities—and mediation vouchers. They proposed the wider provision of SPIP, the Separated Parents Information Programme that was mentioned earlier. I do not think I am belittling SPIP to say that it is like a speed awareness course for parents. It is not available at the moment unless you come to court, and the proposal is that it should be funded.

They were also suggesting early legal advice, which those of us who are a little older than some others would call green form legal advice. In the modern world that would mean a parent having two hours paid-for legal advice online with a solicitor, probably somewhere else in the country.

So those were the proposals, but they need money. The previous Lord Chancellor was in favour of what had been happening, and some of it is progressing. In particular, the web presence is being funded because it is likely to be of great benefit and may well be used in other areas of the law. The mediation voucher scheme carries on, and there is interest in doing more, but that is the list; that is what is needed.

Those of us in the court system feel that although there are a lot of cases—such as domestic abuse—that need to come to court, for many it is the first port of call. An account given by a family solutions group involved in a pilot in Birmingham is particularly striking. They went every Monday for two months to provide intervention and advice in a local family hub, or two family hubs, in Birmingham. They were astonished that the professionals working in the hub had no awareness of most of the things I have mentioned. They were not aware of mediation, the voucher scheme or an SPIP. There is a feeling out there that, if you have a problem with your ex, you go to court, and that is a major impediment to us being able to move forward, because going to court does not help. There is a book called "(Almost) Anything but the Family Court" and I, as head of the family court, wrote the foreword.

Q57 Tony Vaughan: Just picking up on the mediation information and assessment meetings which were one of the outputs of that review in April 2024, and which were supposed to radically tighten up the process, what effect would you say that tightening up has had, if any?



Sir Andrew McFarlane: Under the MIAM, there is a requirement that if you issue an application to come to the court—unless you are exempt through domestic abuse for example—you have to go to mediation for an hour. The statistics show that a large proportion go on to attempt mediation and a fair proportion end up resolving the matter themselves, but the arrangements had fallen into disuse. We tightened up the exceptions, and we made it a mandatory requirement that the judge had to send people back to mediation if they were not exempt.

It has been in now for around 15 or 16 months but the data—such as it is—shows that the increase in the number of MIAMs being taken up is only about 1%. I am very disappointed by the outcome because the process needs tightening up, so I need to revisit that.

Q58 **Tony Vaughan:** Are we collecting the right data on this? Do we know what proportion of parents who go to MIAM actually start mediation?

Sir Andrew McFarlane: I should have written that down to tell you; I think it is about 60%, but we can give you the precise figure. It is a good figure; it is impressive. Many people do not know what mediation is. They say, “I don’t want us to get back together” but that is not what it is about. I am not making fun of it; that is the perception. When they sit down with a mediator and understand what the process is, and what a mediator looks like and the sort of things they say, then it becomes quite attractive, and it should be.

Q59 **Tony Vaughan:** What reforms are most important to get us to the point where parents see court as a last resort rather than the first resort?

Sir Andrew McFarlane: It is about banging that message home; it is a catalogue of things. This MIAM tightening up is part of a much wider jigsaw. It is the only bit we have done, and it sits alone at the moment. It is funded, the take-up on the mediation voucher scheme is impressive and it is good that, in these tight financial circumstances, the Ministry of Justice continues to fund the voucher scheme, but the whole apron around the court needs to be populated with other resources to allow people to understand what normal people do when they split up—what normal looks like—and to feel reassured that they are doing something that is right for their child. When you split up it can be a frightening, bewildering time. So that is a big change, but until we start trying to do it, it will not happen.

Q60 **Tony Vaughan:** Lastly on the early intervention scheme, we have been talking about the Public Law Outline, but what would a family group decision-making meeting—which is in the Children’s Wellbeing and Schools Bill—add to that PLO pre-proceedings process?

Sir Andrew McFarlane: It is a step that is undertaken by quite a few local authorities now, and the aim of the Bill is to make it uniform for all 152 local authorities. This is a difficult subject, because I am a judge and I should not be commenting on the content of a Bill. I have seen the Family Rights Group’s response to the Bill, which is that although it is a



good start, there is not much detail in it. The Bill talks about a meeting, whereas it sees the family group conference as being a process that may take time to set up and then to move forward. A lot will turn, not so much on the wording of the clause that goes into the Act if it is passed, but in the guidance and regulations that underpin it.

Tony Vaughan: As a concept—

Sir Andrew McFarlane: As a concept, it is absolutely what ought to be happening, and that is what all three of the other witnesses have said. It is very welcome because often in a family—even if something really awful has happened through the care of the parents—there will be safe members of the family who can come forward. They need permission and encouragement to come forward at an early stage, and that can change the course for the child from going through care and then on into adoption to having a life where they are living in their family with the knowledge of their parents even though they cannot—it is thought—safely live with them.

Q61 **Warinder Juss:** Thank you, Sir Andrew. I am going to ask you about the Pathfinder courts. You have said previously that you think they are the future for private law cases. What feedback have you had from parents, children and victims of domestic abuse about their experience of Pathfinder courts? Why do you think they are the future, and do you think we are heading towards them?

Sir Andrew McFarlane: The feedback is limited at the moment. We have only been doing the courts for two or three years in two centres, and then much more recently in other places. In Wales, it has them in all family courts now, and the feedback is that the majority of those who have been contacted were happy with the outcome. They felt they had been listened to and the children were pleased that their voices had been heard at the beginning of the process, which is obviously a key element of Pathfinder. In England—I will not read out the quotes from children—the feedback I have seen is that parents and domestic abuse survivors feel better informed and better protected, and that they have been listened to.

I am talking as if you all know about Pathfinder; I will spend a minute just saying what it is. In the current model, a couple come to court—one of them may be represented, often the other is not—and the court does not know much about the background, so it says, “What is this case about?” The judge is sitting back, reacting to the adults, and it is led by the litigants. It is only if it carries on being contested eight or nine months or more down the track that a report from CAFCASS comes in, and someone speaks to the child, the school, the doctor or whatever, so the court has some independent knowledge about what is going on, but by then, things will have become entrenched.

Pathfinder does two separate things. Before the very first hearing, CAFCASS does all the preparation, so that instead of reacting to the



couple, the courts get the full clip. In my mind's eye, the judge leans forward saying, "Well, you two, look at what is written down here in this report called a child impact report, is this a description of what is going on? Look at the impact on your child of the way you two are at the moment. What are we going to do about this?" It is immediately an informed process, and the judge has a pretty clear view of what is going to be the better outcome for the child.

Secondly, and importantly, the MOJ puts money into the Pathfinder areas to fund domestic abuse professionals, making sure that there are those resources and that professionals come to court much more often with Pathfinder to support those who are the victims of domestic abuse. As was said earlier, the judges are provided with a domestic abuse appraisal as part of their information, so domestic abuse is far more in focus with professional input at that first hearing in a way that is not the case now.

Q62 Warinder Juss: Are these cases getting resolved, or are they coming back?

Sir Andrew McFarlane: With some cases, it is so obvious what the outcome will be that, at the gatekeeping stage, when the court has a look at the report, it will make the order and say, "You can come back if you do not agree with this but that is the order." Other cases are resolved at the first hearing. If there is a second hearing, it tends to happen two or three weeks later and the hearing is not about fact-finding, it is about what we are going to do. The only witness might be the CAFCASS officer or the parents talking briefly, so it will be a short hearing. The case is resolved at that stage and there is a lower level of people coming back to court to dispute matters.

Q63 Warinder Juss: In June, the Public Accounts Committee heard that it was a bit of a challenge to roll out Pathfinder courts in London because of high caseloads. Is that still the position, or is the situation getting better?

Sir Andrew McFarlane: In order to have a hearing in four weeks' time, you have to have the backlog pretty well cleared. In the bigger centres such as Birmingham, Leeds and Cardiff where Pathfinder was rolled out, we made a concerted effort to clear the backlog nine months before it started. We learned a lot through that. The courts where it will go now—Staffordshire, the Black Country, Hereford, and Worcester and then Hampshire, because they are close to current Pathfinder courts—have low backlogs. The backlog in London is enormous, but they have started to get it down; the MOJ has put money in to have extra courts sitting, and again the figures show the backlog is coming down.

We have learned from Birmingham, Cardiff and Leeds that when you have a concerted push and bring the cases in, people are often very relieved to be brought back into court. Quite often life has moved on, and they have rearranged themselves anyway, so it is actually less of a challenge when you start attacking the backlog than people think it might be.



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Depending on whether the MOJ authorises Pathfinder to go anywhere else apart from the 10 courts where it will be by the end of this financial year, the plan will be to address the backlog everywhere, but in London and the south-east in particular, so that Pathfinder can start there.

Q64 **Warinder Juss:** Do you think that is likely to happen?

Sir Andrew McFarlane: It is doable. It is a big challenge but already it is moving in the right direction. If my eyesight was good, I could give you the figures for London, but I am happy to send them in.

Q65 **Warinder Juss:** Can I just move on to the family drug and alcohol court? Previously you said to the Committee that this court was a bit of a postcode lottery. What is the reason for that lack of provision?

Sir Andrew McFarlane: Again, members of the Committee will probably know what the court does; these are public law proceedings, and the presenting issue is usually a mother, but may well be a father, with drugs and/or alcohol problems and often, previous children have been removed. The court will say, "Look, are you prepared to be assessed, and if appropriate to engage with this group of professionals who are available to address your addiction problem while we get the case carried on, because it will take 26 weeks." If they agree, they come back and report to the judge for a review every two weeks, rather in the way it happens in the criminal court with drugs, though in a different context. This has a high success rate of supporting these individuals to become dry or clean, so that is all good.

The problem is who pays for this group of psychiatrists, psychologists, and specialist social workers, because they are not part of the court system. The answer is probably the local authority, which is the normal source. In some areas, police commissioners pay, or charities pay, but the funding is haphazard and not cheap. All the research of FDAC shows that for every pound spent, £2 to £3 benefit is reaped, and you can look at that research, but it is about getting the money up front in the course of the financial year.

What happens is that local authorities that have geared themselves up to do this can run the FDAC, and some courts have been running for years, but quite often they say, "I'm sorry, we can't fund it anymore," and they leave. That happened in Newcastle in the last nine months, almost the same week that we opened one in Liverpool. We have lost most of the local authorities from the Black Country at the moment. So, it is a postcode lottery because it depends upon the local authority in each postcode to be able to fund it. I have to tread carefully, Chair, because I am a judge, but it occurs to me that the social benefit of using the court as a moment in someone's life for intervention, with the judge as a parental figure, achieves massive change for these individuals. Their lives turn around. It is something that might be looked at across Government. It is not actually an MOJ problem. The MOJ do their bit by providing the courtroom and the judge to be the facility, but the Home Office, the



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Department of Health and Social Care, and the Department for Education must have an interest in this. But I am a judge, and I could not possibly say what I have just said.

The reason that I am passionate about this is that, although it says on the tin, "Drugs and alcohol," I understand that in nearly every case an underlying feature is domestic abuse. These individuals are serial victims of horrid sustained domestic abuse, and turning to drugs and alcohol is a coping mechanism. The professionals working in FDAC say that we often have to address the domestic abuse first before we can allow the individual to have confidence to move on. If that is right—if it is a facility that will address domestic abuse—then all the more reason for it to be taken seriously in the Government campaign that rightly focuses on violence against women and girls.

I hope I have not overstepped the mark; now I may have to retire.

Q66 **Warinder Juss:** I perhaps should not ask the next question, then.

You are obviously of the view that we should have a family drug and alcohol provision in every court area.

Sir Andrew McFarlane: Yes, I have been on record for a long time saying that.

Q67 **Warinder Juss:** But it is just getting that funding sorted, so somebody else needs to provide that.

Sir Andrew McFarlane: It is always money, is it not, and I have the luxury of not having to make a decision about money. I have not met anybody who is against FDACs; it is just a matter of financial priorities.

Q68 **Chair:** You alluded to your retirement and made us aware that this could be the last time you appear in front of the Committee. What we would like to do in the last part of this session is to reflect on the time when you were here before and ask you about the changes that have taken place since then, but I am conscious that the vote is going to come at exactly the wrong time.

Sir Andrew McFarlane: Are you going to have a vote now?

Chair: It will be in five minutes, so I will tell you what we were going to ask, and we will then have to disappear for 10 to 15 minutes. If you are not able to stay, you could always reply to us in writing.

Sir Andrew McFarlane: I am able to stay; the question is whether you want to come back to hear the answer.

Chair: We are going to very briefly cover the topics of domestic abuse, AI transparency and liberty orders, so nothing too complicated.

Q69 **Mrs Russell:** The most important thing is that when you gave evidence before this Committee in April 2024, you suggested that to avoid the



problem of special measures not being in place when victims of domestic abuse attend court, they should be in place as default. Do you know if steps are being taken to implement this?

Sir Andrew McFarlane: In a lot of courts now, the experience is that special measures are used so often that the kit is in the courtroom and it is quite easy to take out. It is certainly not the case that it is the default in every court, but when I visit courts—as those of you who visit courts will also know—the screens are always there. It is pretty rudimentary, but it is part of ordinary business now and there is an element of thinking that we have moved on. We do not have the resources that I could dictate—even if that were possible—that it should be the default in every court.

Q70 Mrs Russell: In terms of final reflections, I wondered two things. First, although I am sure you are irreplaceable, do you know how matters are going in terms of finding your replacement?

Secondly, do you have any reflections you would like to share on your term as president of the family division, or other issues that you would like to talk to us about?

Sir Andrew McFarlane: I can see the Chair's eye on the clock.

Mrs Russell: We have not heard a bell, so you are good.

Sir Andrew McFarlane: There will need to be a Judicial Appointments Commission competition to find my successor. I have given six months' notice on the understanding that the successor will be identified before the end of that period. I do not know any more than that; it is not a matter for me, it is a matter for others.

Looking back, it has been a time of enormous change. We have discussed quite a bit of it, but it goes back to the question you asked, and in the course of that time, we have rolled out the digital programmes for almost the entirety of family justice; private law divorce, which is working very well; and the financial remedy side of family cases. The remaining bit is private law, but it is not quite ready to go yet.

If you were a judge or in the court offices during that time, you would have found it a very challenging process. Despite the best endeavours of the people behind them, none of these processes work straight out of the box. When I became president seven years ago, we thought we would finish that process in three years and we still have not. That has been a characteristic of the whole time I have been president, but we have effectively got it done now which is a major development.

What I have talked about has been a prominent part of my time. The one thing I have not mentioned is transparency. You will know that we have opened up the court, and it is now part of business as usual that journalists can come in and report what goes on, without naming anybody. Being transparent is much more than simply letting journalists



in; it is an attitude of mind. I have been prepared to go on the radio and give interviews to journalists in a way that judges probably have not before, because the public have a right to understand what we are doing on their behalf. I think being transparent will continue and continue to be something that needs to be looked at. I hope you all visit your local family courts. I hope I have encouraged all the local judges to ask their individual MPs to come in. I am sure MPs visit the local schools and local hospitals, so why not the local family court? Journalists should come into the local family court, not just to report a story—which of course they can—but to see what goes on and what makes it tick. We were called the secret family justice system or the secret family court, and I do not think that can be applied to us now. We do not want to be secret. That change has been a big one in my time.

Q71 **Chair:** I may make this the last question: you told our predecessor Committee that you wanted some long-term clarity as to what the court of the future would look like and what staff will be in the building. I noticed that you recently appointed a national lead judge for AI; what does that role involve, and what role do you see for AI in the future of the family court?

Sir Andrew McFarlane: Those are two separate things, but both are equally important. What I was talking about on the last occasion is uppermost in the mind of family judges up and down the country; once the computer programmes are up and running, what will the staff resource in the building be, in terms of human beings to support the judges?

I am very pleased that work is now being done to look at what the court of the future will be in terms of that support. It is crucial that judges are free as much as possible to do the judging rather than becoming quasi-administrators running computer systems.

AI is fascinating; we are all only where we are now in October 2025 in our understanding of it and what it is capable of doing. I have appointed a judge to be in charge of AI, not because I want the family court to be doing everything on AI by next Thursday, but because I was conscious of the fact that this was all developing, and we need to be informed about it and understand what it can do for us and what to be aware of.

I am keen on transcripts of court hearings and, in particular, judgments being available much more than they are, and it is burdensome and expensive to get a transcript, and judges have to read and authorise them. I am sure AI can be very useful in producing a transcript far more efficiently, and AI should be available to more efficiently anonymise a judgment so it can be put out. But we need to be wary; there have already been cases where AI has been used by lawyers to produce documents which contain what are called hallucinations, non-existent decisions. So, it is something we need to be fully aware of, but you will need to ask the next president what it is about in terms of where it lands.



HOUSE OF COMMONS

Chair: Thank you very much indeed. We are not going to keep you any longer.

Sir Andrew McFarlane: I think we have covered the ground.

Chair: If any clarification is needed, we will write to you. I am going to close the session, but can I just wish you well for the rest of your term in office and whatever you do after that? Thank you for bearing with us.

Sir Andrew McFarlane: Thank you very much. I am sure you will not need to invite me back again, but if there is anything you want in terms of fresh information, then please ask.

Chair: Thank you, and that brings an end to this afternoon's business.