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COURTS SERVICE  
**hmcs**

# **BRISTOL**

## **Family Courts Report**

**April 2005 - March 2006**

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# AREA PROFILE



The Bristol Care Centre covers 5 Local Authorities:

- i) Bristol City Council
- ii) Bath and North East Somerset Council
- iii) Gloucestershire County Council
- iv) South Gloucestershire County Council
- v) North Somerset Council

Cases from Wiltshire and Somerset Local Authorities are occasionally heard at Bristol Care Centre

## **INTRODUCTION – AVON, SOMERSET AND GLOUCESTERSHIRE COURTS**

Bristol Care Centre has specialist jurisdiction to deal with Adoption (including Convention Adoptions), Gender Recognition Act, Civil Partnership, Public and Private Law Children Act 1989 proceedings, Family Law Act Injunctions and Divorce.

### **KEY PLAYERS**

Family Division Liaison Judge	The Honourable Mr Justice Coleridge
The Designated Family Judge	Her Honour Judge Darwall-Smith DL.
Regional Director	Peter Risk
Area Director	Rod White
Court Manager, Bristol Care Centre	Caroline Bodington
Senior Family Listing Officer /Secretary Avon, Somerset and Gloucestershire LFJC	Rebecca Cobbin

Court Manager, Bath County Court	Sandra Baez
Team Leader, Civil and Family Courts, Gloucester	Lynne Overbury
Head of Operations, Gloucester	Carole Banks
Court Manager, Weston-Super-Mare County Court	Kate Dunn

## BRISTOL COUNTY COURT

Bristol County Court continues to operate efficiently and exceed most of the targets set despite being hampered by inadequate court buildings. A new court building is urgently required. It has been promised for the last ten years but has yet to materialise.

The court operates from a split site; the court offices and district judges' chambers are based at Greyfriars whilst the court building is approximately ¼ mile away at the Guildhall. The opportunity for regular meetings between the circuit and district bench and with members of the office staff is therefore more limited. Email facility provided by the link system has relieved some of the difficulties. Unnecessary time is taken up with moving files between the two buildings.

The Guildhall court building does not provide sufficient conference space and has inadequate facilities for people with disabilities, vulnerable witnesses and cases requiring additional security.

Recent building works have taken place including cleaning the outside stonework, the construction of a new roof for court 14 to deal with the previously leaking roof, a prayer/quiet room, and a new lavatory with facilities for the disabled.

These improvements are welcome but do not address the stated problems.

Despite the difficulties caused by the accommodation, the District and Circuit Bench receive an exceptionally high standard of efficiency and support from the Court Manager, Caroline Bodington, appointed in 2005 and all her staff.

Rebecca Cobbin the senior family listing officer has been in charge of the family section consisting of 5 members of staff since September 2002. This has ensured continuity and extremely effective management of the section. She is responsible for listing High Court and County Court work. She has additional responsibility as secretary to the local FJC, previously the family court business committee.

The court is well served by the legal profession and has a strong family Bar and a large membership of the Law Society's Children Panel.

The Court has excellent links with the family proceedings courts, the police, CAFCASS, Local Authorities, the Mediation Service, the medical profession, domestic violence support services, the NSPCC, Contact Centres, Bristol University and the University of the West of England.

Bristol Care Centre receives approximately 80 new care cases per year.

Two or three Circuit Judges sit each day, with the majority of their time being spent on Public Law work. They also deal with all adoption work and the most complex Private Law cases. The split between Public Law and Private Law work in the last 3 months was as follows:

February 2006	Public Law	34	Private Law	9
January 2006	Public Law	36	Private Law	20
December 2005	Public Law	26	Private Law	8

## ALLOCATION OF JUDICIARY TO FAMILY HEARINGS

The following table shows the allocation of Judiciary to Family hearings from April 2006 – March 2007.

<b>Name of Judge</b>	<b>Bristol Care Centre</b>	<b>Bath County Court</b>	<b>Gloucester County Court</b>
Her Honour Judge Darwall-Smith DL	150		
His Honour Judge Barclay	185		
His Honour Judge Rutherford DL	125	30	
His Honour Judge Roach	34		
His Honour Judge Ticehurst	44		
His Honour Judge Bromilow	60		
His Honour Judge Harington			70
Fee paid			6
<b>TOTAL</b>	<b>598</b>	<b>30</b>	<b>76</b>

## JUDICIAL AVAILABILITY IN BRISTOL CARE CENTRE, BATH AND GLOUCESTER

Name	Location	Sitting Time on Family	Comments
Her Honour Judge Darwall-Smith DL	Bristol County Court	See table above	Designated Family Judge Sits in Crime for 6 weeks per year. Sits at the Royal Courts of Justice for 2-3 weeks per year. Section 9 Judge Authorised to deal with adoptions and ancillary relief appeals JSB family tutor Bristol Area Judicial Forum
His Honour Judge Barclay	Bristol County Court		Section 9 Judge Authorised to deal with adoptions and ancillary relief appeals JSB family tutor Member Magistrates Area Training Committee
His Honour Judge Bromilow	Bristol County Court and Taunton County Court		Awaiting confirmation of authorisation to deal with adoptions. Ancillary Relief appeals can be released to HHJ Bromilow by the FD Liaison Judge on a case by case basis.
His Honour Judge Rutherford DL	Bristol County Court and Bath County Court		Section 9 Judge for Civil and Family work. Authorised to deal with adoptions and ancillary relief appeals Sits in Bath County Court for approximately 60 days per year but often deals with Public Law work for Bristol
His Honour Judge Roach	Bristol County Court		Authorised to deal with adoptions JSB Civil Course Director
His Honour Judge Ticehurst	Bristol County Court		Section 9 Judge Authorised to deal with adoptions JSB family tutor
His Honour Judge Harington	Gloucester County Court		Private and Public Law only

## District Judges with Family Authorisations

Name	Location	Sitting Time on Family
District Judge Adam	Bath County Court	80%
District Judge Rutherford	Bath County Court	30%
District Judge Daniel	Bristol County Court	45% (based on May 2006 profile)
District Judge Exton	Bristol County Court	39% (based on May 2006 profile)
District Judge Stuart-Brown	Bristol County Court	55.5% (based on May 2006 profile)
District Judge Watson	Bristol County Court	34% (based on May's profile)
District Judge Goddard	Gloucester County Court	62%
District Judge Singleton	Gloucester County Court	3 days per month
District Judge Thomas	Gloucester County Court	54%
District Judge Corrigan	Weston Super Mare County Court	48%

District Judge Goddard sits 3-4 days per month and District Judge Thomas sits for 2-3 days per month at Cheltenham County Court, which does not have family jurisdiction.

District Judge Singleton moved to Gloucester from Bristol late in 2005. From December 2005 – March 2006 he spent 59% of his Gloucester sitting days on Family work and in addition he continued to sit every Friday and every third Tuesday in Bristol.

The itineraries for 2006-7 show that District Judge Thomas and District Judge Goddard will both sit 4 days per month on civil work.

District Judge Singleton will sit two days a month at Cheltenham and every Friday at Bristol. The current sitting plan anticipates that the Gloucester District Judges' days will be split fairly evenly between civil and Family.



## RECORDERS WITH FAMILY AUTHORISATIONS

Designation	Name	Location	Family Days Sat	Comments
District Judge	RDI Adam	Bath County Court	23	Has Private and Public law tickets as a DJ, clarification being sought as to authorisation as a Recorder
Barrister	R W Belben	College Chambers, Southampton	22	Private Law
Barrister	A C Chippindall	Guildhall Chambers, Bristol	4	Private Law
Solicitor	P A Derbyshire	Hugh James Ford Simey	5	Private Law
District Judge	Miss J Dowell	Taunton County Court	16.5	Has Private and Public Law tickets as a DJ. Clarification being sought as to authorisation as a Recorder
Barrister	G T Harrap	Pump Court Chambers	9.5	Private Law
Barrister	Ms S E Jacklin	St John's Chambers, Bristol	0	Private Law
Solicitor	H R Martineau	18 Carlton Crescent, Southampton	7	Private Law
Barrister	Miss J Miller QC	Pump Court Chambers, Winchester	15.5	Public Law Private Law S 9
Barrister	Miss C Murfitt	1 Hare Court	18	Private Law Public Law
Barrister	MC Norman	Lorne Park Chambers, Bournemouth	5	Private Law
Solicitor	Miss P M D Phillips	18 Market St, Tavistock	3	Private Law
Barrister	S Powles QC	Henderson, 1039 london/chancerylane	3	Private Law
Deputy CJ	R Pryor QC	Home address	12.5	Public Law Private Law. Authorisation to sit extended to May 2007

Barrister	Miss A Ralphs	Home address	30	Private Law
Barrister	Mrs J Roberts	Queen Elizabeth	4	Private Law
Barrister	Miss L E Sullivan QC	Goldsmith Chambers Chancery Lane	8	Private Law Public Law S 9
Barrister	J P Swift	29 Bedford Row	6	Private Law
District Judge	M Tennant	Southampton	7	Private Law
Barrister	R S Tolson QC	222 Strand, London	28.5	Public Law Private Law S 9
District Judge	J Turner		1	Private Law Retired as of 31/10/05
Barrister	R T Tyson	3 Paper Buildings	6	Private Law
District Judge	I E Weintroub	Bournemouth	21	Private Law
Barrister	S Wildblood QC	Albion Chambers, Bristol	33	Public Law Private Law Section 9
Deputy Circuit Judge	J Wroath	I.O.W	77.5	Public Law Private Law
Barrister	JJ Wright	2 Kings Bench Walk	2	Private Law
Barrister	PM Wright	Queen Elizabeth Buildings	13.5	Private Law
District Judge	Ackner	Aldershot	4	Private Law
DJ	H Black	PRFD	5	Private Law Public Law
Barrister	L Davies	Chichester Chambers	2	Private Law
District Judge	D Field	Trowbridge	0	Private Law Has ticket as a DJ
District Judge	N Murphy	Winchester	6.5	Private Law
Barrister	O Dwyer	One Garden Court	0	Private Law
D C J	A Sander	Plymouth	17	Private Law Public Law
Barrister	R Scarratt	One Garden Court	1	Private Law
Barrister	P Storey QC	29 Bedford Row	13	Private Law Public Law S 9
Barrister	N Wood	5 Paper Bldgs	6.5	Private Law

## Magistrates' Court

COURT	DISTRICT JUDGE DAYS PATTERNED TO FAMILY WORK	LAY MAGISTRATES' DAYS PATTERNED TO FAMILY WORK
Avon and Somerset FPC	District Judge Dudley Thomas - no regular pattern. Sits most of his Family days in London.	Variable

The Family Proceedings Court is keen to have District Judges days on the rota, particularly in Bristol. At present District Judge Thomas is wholly allocated to criminal work.

## JUDICIAL AVAILABILITY

Above are lists of Recorders and District Judges authorised to hear Family cases. The only Deputy District Judges authorised in family cases are Deputy District Judge Turner and Deputy District Judge Bird.

In practice Bristol County Court rarely uses Recorders, because most of our District Judges hold family tickets and case manage all Private Law work. When assistance has been required for Public Law work, it has proved difficult or impossible to book a suitably authorised Recorder and on at least two occasions when Recorders have been booked to sit on Public Law work, they have cancelled their sittings at short notice.

In Bristol Care Centre Recorders sat for a total of 16 days on Family hearings between April 2005 – March 2006, 9 of these days on Private Law and 6 on Public Law.

Her Honour Judge Darwall-Smith DL, and His Honour Judge Barclay sit for the majority of their time at Bristol County Court.

His Honour Judge Rutherford DL splits his time between civil work (both County Court and Section 9) and Family work, but has recently given up his Crime ticket in view of the increase in workload in Family. He also sits in Bath County Court for approximately 30 days per year, but generally hears Bristol Public Law Care work when sitting there.

His Honour Judge Bromilow sits in both Bristol County Court and Taunton County Court on Family work and Crime.

His Honour Judge Ticehurst and His Honour Judge Roach also hold Family tickets. His Honour Judge Harington is scheduled to sit in Gloucester County Court on Family work for 70 days. Gloucester is concerned by the reduction in their sitting days this year.

In 2005 the circuit judges sat for approximately 595 days on Family work, approximately 50 of these being High Court cases. In 2006-7 the sitting allocation is 628 days.

As a result of listing difficulties and lack of judicial availability in November 2005, Mr Justice Coleridge and Judge Darwall-Smith DL held a meeting with the Regional Director. It was agreed that at least 60 additional sitting days must be found to address the problems of delay.

In March 2006 the Presiding Judge warned all judges that the Circuit is required to make budget cuts of approximately 8% (now believed to be 5%) with the result that sitting days will be lost. The principal impact of the cuts will be on the County Court.

If the allocation of 628 days is reduced, the Designated Family Judge would be extremely concerned about the court's ability to cope with the increasing number of complex care cases which occupy considerable amounts of judicial time.

The following is a summary of outstanding cases of substantial length:-

3 cases with a time estimate of 10 days

1 case with a time estimate of 15 days

1 case with a total time estimate of 20 days (currently split into two 10 day hearings)

The 15 day case originated in Taunton, but was released to Her Honour Judge Darwall-Smith DL by the Honourable Mr Justice Coleridge. While these cases are running, it is difficult for the court to cope with emergency applications, such as recovery orders and contested interim care applications.

In November 2005 it was necessary to stand out care cases, because two family Circuit Judges were hearing lengthy finding of fact hearings. This created further delay as those cases invariably returned to court as emergency applications, partly because they had not had the benefit of early judicial case management. In the past year a number of finding of fact cases have greatly exceeded their original time estimates, in the worst instance increasing from 5 days to 15 days. This makes it very difficult to maintain judicial continuity.

Since the introduction of the Public Law Protocol, District Judges have dealt with allocation hearings and where possible have treated the hearing as a case management conference.

Since November/December 2005 the District Judges case management role has increased in order to combat delay and make more time available for the Circuit Judges to deal with substantive hearings. Two mornings per week have been allocated to the District Judges for case management hearings prior to Pre Hearing Review.

Contested interim care order hearings and section 38.6 applications may be listed in front of a district judge. In practice they deal with few cases beyond the case management conference. This is in part due to the way in which the District Judges' lists are constructed at present. It is difficult to make them available to hear Section 38(6) assessments/contested interim care applications with time estimates of half a day or more at short notice, and many of these hearings are complex. Her Honour Judge Darwall-Smith's view is that often the outcome of these hearings is key to the final outcome and therefore it is helpful for the Judge allocated to deal with the final hearing to deal with the interim hearings to preserve judicial continuity.

The itineraries will be reviewed when the District Judges are authorised to hear final hearings in Public Law matters. It is hoped that at least three district judges will be authorised. However, unlike areas in which cases are transferred from the FPCs shortly after issue, only very complex cases are transferred to the Care Centre in this area. This may restrict the number of final hearings listed before the District Judges. The current sitting pattern at Bristol Care Centre is as follows:

<b>Sitting day</b>	<b>Circuit Judges</b>	<b>District Judges</b>
Monday	2-3	1 Private Law list (including First Directions with Cafcass) – all day 0.5 day – Private Law (reviews/directions)
Tuesday	2-3	Morning list – Public Law directions
Wednesday	2-3	All day Private Law list including first directions with Cafcass
Thursday	2-3	Morning list – Public Law directions
Friday	2-3	Injunction and Committals list -1 District Judge all day Private Law final hearings – 1 District Judge all day.

## **HIGH COURT**

The Western Division Family Liaison Judge, The Honourable Mr Justice Coleridge, sits in Bristol for approximately 2 weeks per year, although Bristol cases are heard before him at other venues on the Circuit. For example, he is due to hear a 5 day freeing application in Winchester from 3<sup>rd</sup> – 7<sup>th</sup> April 2006. In turn, cases from elsewhere on Circuit are listed before him in Bristol.

This year we have a stand-by High Court Judge, The Honourable Mrs Justice Pauffley, sitting in Bristol to hear a 3 week care case from 6<sup>th</sup> – 23<sup>rd</sup> June 2006. Most High Court work is released to one of the Judges holding Section 9 tickets: these are Her Honour Judge Darwall-Smith DL, His Honour Judge Barclay, His Honour Judge Rutherford DL and His Honour Judge Ticehurst. High Court cases account for 10% of Bristol Care Centre's workload.

## **ACCOMMODATION**

Please refer to earlier comments under heading “ Bristol County Court”.

At present all the Circuit Judges sitting on Family work are housed in The Guildhall, Small Street, Bristol.

The Designated Family Judge, Her Honour Judge Darwall-Smith DL, sits in Court 14, In 2005 a video link system was installed in Court 14. It has been in regular use to avoid the need for expert witnesses to attend court and allow Judges to case manage cases from a remote location.

Unfortunately there is no separate room in the Guildhall where children or vulnerable witnesses can give evidence. When this is required, we approach the Crown Court, although court rooms are rarely available, or use the facilities in the Conference room on the 5<sup>th</sup> floor of Greyfriars. The video link facilities in court 14 are not mobile, which means that Judges regularly have to move courts if they need to use the facility. An additional problem is that Court 14 is on the first floor. There is no lift and therefore it is inaccessible to disabled users.

His Honour Judge Rutherford DL and His Honour Judge Barclay use Court 15 and Court 17 respectively, both of which are on the first floor. Court 17 is fairly small and not really suitable for the complex Care cases involving multiple parties.

His Honour Judge Bromilow uses Court 18 from Monday – Thursday but has to move to Court 16 on a Friday, as the injunction court is always held in Court 18. Court 16 is very small and the only access is through the courtroom, which is not ideal, particularly in sensitive cases.

The Injunctions are heard by a District Judge in Court 18 each Friday; this court is more suitable than any other, as it is located on the ground floor, has a large waiting area outside, and can be accessed from both Small Street and Broad Street, which is sometimes necessary for security reasons. However, there are insufficient interview rooms close to the courtroom and it is difficult to segregate the parties.

The final hearings of Private Law matters are also heard at The Guildhall on a Friday, the District Judge sitting in whichever court remains available. Multi Track and Section 9 civil courts sit on alternate weeks. When these courts are running the District Judge with conduct of the family hearings uses Court 16, or, if there are no cases involving security issues, will sit in chambers at Greyfriars.

Bristol FPC use a courtroom in the Guildhall on a Wednesday when space allows.

The District Judges' private law directions lists and their public law lists are held in their chambers at Greyfriars.

The District and Circuit Judges agree that it would be far more satisfactory if the District Judges were able to sit in the same building as the Circuit Judges, particularly when hearing the Public Law cases, as this would aid communication, but there is simply insufficient accommodation to allow this.

In the Guildhall there is a children's room located in the judges' corridor between Court 14 and Court 15, which can be used for final adoption hearings and is used as a waiting room for children.

Two interview rooms are available on the 6<sup>th</sup> floor of Greyfriars for the use of Cafcass officers when they interview children.

## **FAMILY PROCEEDINGS COURTS STRUCTURE**

The table below sets out the current Family Court structure in Avon, Somerset and Gloucestershire

<b>Court</b>	<b>Status</b>	<b>Admin Centre</b>	<b>Hearing Venues</b>
Bath Wansdyke FPC	FPC	1	1
Bath County Court	FHC/Divorce/private law	1	1
Bristol FPC	FPC	1	1
Bristol County Court	Care Centre	1	2 (Guildhall and Greyfriars)
North Avon FPC (Bristol)	FPC	1	1

North Somerset FPC(Weston Super Mare)	FPC	1	1
Weston Super Mare County Court	Divorce/Private Law	1	1 (no courtroom)
Gloucestershire FPC	FPC	1	3-4
Gloucestershire County Court	FHC/Private Law/Divorce	1	1

At Gloucester the Family Proceedings Court and County Court have been co-located since 2003.

Bristol is the Care Centre serving Gloucester. Concerns have been raised by Gloucestershire County Council about parents in care cases having to travel approximately 30 miles to Bristol for hearings.

The following number of courts sits each week

Sitting day	Northern area	Southern area
Monday		
Tuesday	2 courts at Bristol FPC	
Wednesday	2 courts at Bristol FPC	1 court at Frome or Wells
Thursday	1 court at North Avon 1 court at Weston	

<b>Avon &amp; Somerset Family Court Specialists 2006</b>
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<p><b>Bath &amp; Wansdyke And Mendip</b></p>  <p><b>Bristol</b></p>  <p><b>North Avon</b></p>	<p>Niall Urquhart Bath Magistrates' Court</p>  <p>Jo Hastie (and Angela Shean) Bristol Magistrates' Court</p>  <p>Neil Hall North Avon Magistrates' Court</p>
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<b>Weston-super-Mare</b>	Sue Cameron Weston-super-Mare Magistrates' Court
<b>Yeovil</b>	Anne-Marie Tolland Yeovil Magistrates' Court
<b>Taunton &amp; West Somerset</b>	Christine Skilton Taunton Deane Magistrates' Court

District Judge Dudley Thomas is the District Judge for the Avon and Somerset FPCs.

#### **Family Panel Magistrates 2006**

<b><u>Bath &amp; Wansdyke</u></b>	18 Magistrates on Bath FPC panel
<b><u>Bristol</u></b>	47 Magistrates on Bristol FPC panel
<b><u>North Avon</u></b>	16 Magistrates on North Avon FPC Panel
<b><u>Gloucester</u></b>	32 Magistrates on FPC Panel

## **FPC REPORT FOR AVON & SOMERSET**

FPCs in Avon & Somerset sit as per the schedule, which is in accordance with the family workload at each magistrates' court. Additional courts are set up for contested/longer hearings of up to five days.

Private Law applications are low. Discussions are ongoing with CAF/CASS to introduce the private law programme at FPC level. The philosophy of the programme has been embraced in terms of initial CAF/CASS involvement, rigorous enforcement and return to court with judicial/legal adviser continuity. National efforts to address the issue of rationalisation of payments to lawyers for equal work have not been



successful and very little private law work is being transferred down from the County Courts.

Public Law applications are dealt with generally within Protocol time limits, despite there being a low transfer rate up to Care Centres. Cases of up to five days are dealt with, parties have to comply with the Protocol and address the provisions of Article 7 of the Children (Allocation of Proceedings) Order 1991; re. to put material before the court when requesting transfer, firstly on the issue of and impact of delay and then explain why the case is exceptionally grave, important or complex. It has to be recognised that such cases are not static and sometimes complexity unexpectedly increases/a significant event occurs which justifies transfer. We think it inappropriate to suggest that such a case is a 'late' transfer. Downward transfer is unusual.

There is spare capacity in all FPCs and in order to reduce delay for parties and children we would be happy to see more work – particularly if cases in the Care Centre are being put out of lists. The use of the one DJ (Magistrates' Court) with a family ticket, DJ Dudley Thomas, needs more active consideration.

In relation to experts we insist on compliance with Appendix C of the Protocol. The official issue of the FJC Experts Sub-Committee paper on questions to experts in letters of instruction would be helpful. There is still uncertainty/resistance from guardians to do work which appears to be within their field of competence and the suggestion is made that social workers are not independent/objective. Some clarification of the role of social workers/children's guardians in terms of undertaking 'expert' work would be welcomed.

The Local Family Justice Council has been an excellent vehicle to discuss performance, although we are hampered by the lack of usable/accessible data, to foster inter-disciplinary relationships and conduct joint training and to improve practice.

Family Magistrates have regular training and appraisal and there is some suggestion of a move towards greater specialism for legal advisers, which is present to some extent now. There is a lead family adviser in each of the six FPC Court Centres, who are under the direction of the Clerk to the Justices Family Specialist for the Area, Elaine Laken. They are:-

- |                              |                    |
|------------------------------|--------------------|
| - Bath & Wansdyke and Mendip | Niall Urquhart     |
| - Bristol                    | Jo Hastie          |
| - North Avon                 | Neil Hall          |
| - Taunton & West Somerset    | Christine Skilton  |
| - Weston-super-Mare          | Sue Cameron        |
| - Yeovil                     | Anne-Marie Tolland |

In accordance with the national steer we are considering further specialisation.

- Initial paper written regarding the feasibility of centralising family work. The Area Management Board (AMB) approved in principle the idea of centralisation of

family administration and the possibility of specialisation of staff and centralisation of hearing centres.

- A Working group has recently been implemented with the task of making recommendations to the AMB concerning the details of the centralisation project.
- Whilst the AMB and working group accept that the way forward for Family work is specialisation and centralisation across the whole of HMCS the main issue effecting implementation is a very limited budget this year.
- The AMB have no additional money for this project and therefore any centralisation plans must be cost neutral. It is this issue which will dictate how the project develops. As a result progress has been and is anticipated will continue to be slow.
- There have been a number of documents published nationally such as:
  - Practical guide to establishing Family Court Centres
  - Creation of a Single Civil Court
  - Specialisation of Magistrates and the balance of sittings between the Adult Court and Family Proceedings Court.
  - Authorisation to sit and preside in the Family Proceedings Court

Each of the above will have an impact on how, when and where the project is taken forward. The results of some of these consultations have not yet been published.

- IT also continues to be a major issue affecting the progress of the project. The only IT solution capable of processing both FPC and CC work is the FamilyMan system used by the CC. It is hoped that the DCA will fund an upgrade to this system to enable it to function fully in respect of FPC work. The upgrade is hoped to be available by the end of the year.
- It is anticipated that administration of all FPC and CC family work for the area can centralised at two separate locations. Due to the size of the area, geography and location of the care centres it is likely that these sites will be in Bristol and Taunton.
- In the longer term the New Civil Justice Centre would be available for the centralised team for the Bristol area.
- It is anticipated that the Working Group will soon share its ideas and thoughts in the form of a consultation document circulated to the Magistracy, Judiciary, HMCS staff, and external stakeholders. Whilst there is no definitive date for this it is anticipated to be within a couple of months.

Gloucestershire County Court and Family Proceedings administrative staff who deal with Children Act applications are co-located at present and the plan is to merge completely in the next year, with the Family Proceedings staff using the Familyman computer system. Staff have visited the centralised court in Birmingham to see how

centralisation can be achieved effectively. Discussions are taking place as to how to resolve differences in pay etc prior to the merger.

Gloucestershire Family Proceedings currently has only 20 Public Law cases and in the past two years this number has fallen as low as 6-7 cases. When numbers fall to such a low level there is concern that the Magistrates lose their expertise in this area.

Gloucestershire FPC has the capacity to deal with more Private Law work and District Judges have transferred some work down to them. Discussions are taking place as to how this can be developed as both FPC and District Judges in the County Court are keen to take this forward.

*Elaine Laken*

26 April 2006

***(comments on Gloucester FPC by Lynne Overbury)***

There is regular communication between the Care Centre and the FPCs.

Her Honour Judge Darwall-Smith DL has attended a number of family panel meetings to address the Magistrates. Judge Barclay attends the Area Training Committee meetings. Magistrates and justices clerks sit with Judge Darwall-Smith DL and Judge Barclay to observe proceedings at the care centre on an occasional basis. This has proved instructive to both the FPC and the Care Centre.

Elaine Laken, clerk to North Avon Magistrates , Jo Hastie, clerk to Bristol family panel, and Geraldine Connor are particularly valuable members of the local FJC. There is frequent liaison between them and the Bristol Judges and court staff.

# BRISTOL COUNTY COURT AND CARE CENTRE

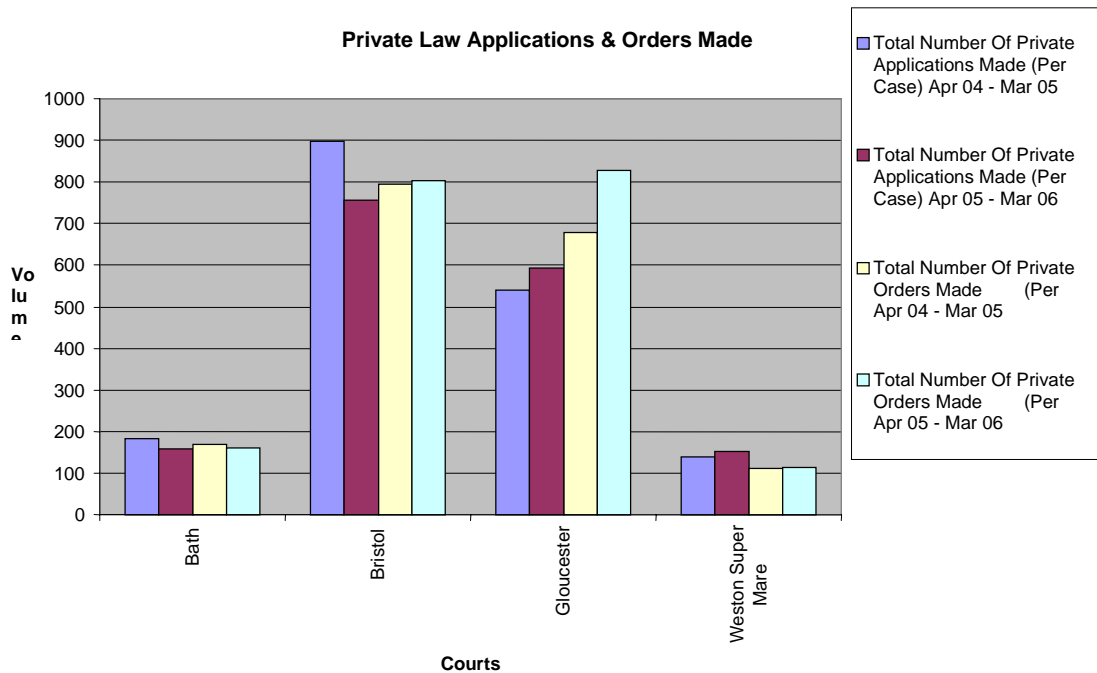
## PRIVATE LAW PERFORMANCE

### Private Law

Court (Per Case)	Number Of Private Law Cases heard within 40 Weeks (Per Case)		Number of Private Law Cases heard with over 40 Weeks (Per Case)		Total Number Of Orders Made (Per Case)		% of Private Law Cases heard within 40 weeks	
	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06
Bath	134	121	35	39	169	160	79.3%	75.6%
Bristol	588	635	206	168	794	803	74.1%	79.1%
Gloucester	447	590	233	239	680	829	65.7%	71.2%
Weston Super Mare	96	98	15	15	111	113	86.5%	86.7%
<b>Bristol Total</b>	<b>1265</b>	<b>1444</b>	<b>489</b>	<b>461</b>	<b>1754</b>	<b>1905</b>	<b>72.1%</b>	<b>75.8%</b>

### Private Law

Court	Total Number Of Private Law Applications Made (Per Case)		Total Number Of Private Law Orders Made (Per Case)		% of Private Law orders <=40 weeks (Target 70%)	
	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06
Bath	182	158	169	160	79.3%	75.6%
Bristol	897	755	794	803	74.1%	79.1%
Gloucester	541	593	680	829	65.7%	71.2%
Weston Super Mare	139	152	111	113	86.5%	86.7%
<b>Bristol Total</b>	<b>1759</b>	<b>1658</b>	<b>1754</b>	<b>1905</b>	<b>72.1%</b>	<b>75.8%</b>



The performance in Bristol County Court for the year April 2005 – March 2006 is significantly above the 70% target at 79.1%

Private Law work is almost exclusively case managed by the District Judges; only the most complex of cases will be referred to Circuit Judges.

In 2005 we introduced a system whereby at the first directions hearing, the District Judge, in consultation with the Children and Family Reporter (Cafcass officer), gives consideration as to whether children aged 9 or over should be interviewed by the Cafcass officer at court. Children meet the CAF/CASS officer at Greyfriars [District Judges's court building] in a specially designated room on the 6<sup>th</sup> floor, away from the court area. This system has reduced the number of reports required from Cafcass and has reduced delay, albeit in a very limited number of cases.

Cafcass are currently able to report within 14 weeks.

The Bristol area has benefited by the creation of the NCH Supervised Contact Centre, "Contact Matters", which was set up at the beginning of 2005 and can take up to 15 referrals. [see Appendix 4]

There is concern that this project is struggling for funding at present and its future is uncertain.

The District Judges have recently held a meeting with Mediators in the Bristol and Bath area and it is proposed that leaflets regarding the mediation process will be sent out with every private law application (and divorce petition).

The manager of Bristol Family Mediation is a member of the local Family Justice Council.

District Judge Stuart Brown holds responsibility for monitoring the Private Law Programme.

Bath County Court has a Cafcass morning every other Thursday. There is no pattern for the rest of the Family work.

Bath County Court processed 75.6% of private law work within 40 weeks in the financial year April 2005 – March 2006

Gloucester has a first directions list for Private Law applications on a Wednesday. Cafcass officers are in attendance. The Court runs a private law review list twice a

month but in view of the number of cases these are frequently accommodated on other dates.

Gloucester processed 71.2% of cases within 40 weeks between April 2005 – March 2006.

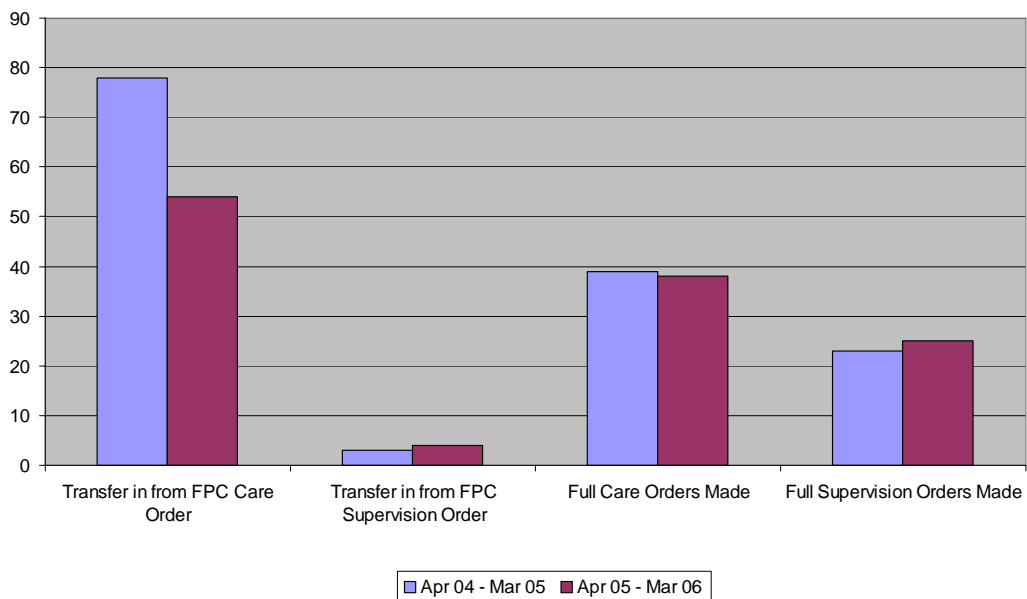
Weston Super Mare County Court processed 77.8% of cases within 40 weeks. District Judge Corrigan sits on Family work in Weston-Super-Mare on a Monday and Wednesday and an additional District Judge sits on Family for one Thursday a month, when a Cafcass officer is in attendance

## PUBLIC LAW PERFORMANCE

### Public Law

Nature Of Application	Volume	
	Apr 04 - Mar 05	Apr 05 - Mar 06
Transfer in from FPC Care Order	78	54
Transfer in from FPC Supervision Order	3	4
Full Care Orders Made	39	38
Full Supervision Orders Made	23	25

Transfer in from FPC and Orders made



## Public Law

Court (Per Case)	Number Of Public Law Cases heard within 40 Weeks (Per Case)		Number of Public Law Cases heard With Over 40 Weeks (Per Case)		Total Number Of Orders Made (Per Case)		% of Public Law cases heard within 40 weeks	
	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06
Bath	0	0	0	0	0	0	0.0%	0.0%
Bristol	12	18	50	45	62	63	19.4%	28.6%
Gloucester	0	0	0	0	0	0	0.0%	0.0%
Weston Super Mare	0	0	0	0	0	0	0.0%	0.0%
<b>Bristol Total</b>	<b>12</b>	<b>18</b>	<b>50</b>	<b>45</b>	<b>62</b>	<b>63</b>	<b>19.4%</b>	<b>28.6%</b>

## Public Law - Discharge (section 39) and Contact (section 34)

Description Per Child	Application		Order	
	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06
Discharge Care Order (s39)	9	15	1	6
Discharge Supervision Order (s39)	0	0	0	0
Contact (s34)	8	13	4	10
Refuse Contact (s34)	14	14	12	12

The performance in Bristol County Court (Care Centre) for the year April 2005 – March 2006 is 28.6%.

There was an increase for July and August 2005 to 50%

Performance for April 2004 –March 2005 was 20.6%

Gloucestershire Family Proceedings Court completed 21 Public Law cases in the year April 2005 – March 2006 and of these 11 (52.38%) were processed within 40 weeks.

The court is constantly monitoring the statistics and actively promotes procedures to combat delay and improve the statistics.

In the Avon and Somerset area cases remain in the FPCs for significantly longer than in many areas of the country with the average time spent in the FPC being 10.3 weeks, a significant amount of time given the 40 week disposal target.

Her Honour Judge Darwall-Smith DL has held meetings with Legal Advisors and Justices Clerks in the Family Proceedings Courts to encourage early transfer and the situation is monitored on a monthly basis.

The FPCs deal with some 3-4 day hearings. In many other courts, these cases would have been transferred to the Care Centre, hence the cases transferred are complex in accordance with the transfer guidelines. In the view of the designated judge all cases are appropriately transferred and suitable for hearing by the care centre. Appeals against the magistrates' refusal to transfer are extremely rare.

As at 28<sup>th</sup> February 2006 42% of cases (42 cases) in the Bristol Care Centre were over 40 weeks. Eight of these cases are proceeding in the High Court. There were a total of 99 Care Cases outstanding at this date and it may be significant that of these 10% of Bristol's workload was High Court cases. This compares to only 6% in Leeds and 2.4% in Sheffield, which are two of the best performing courts in the country.

The cases proceeding in the High Court often involve the serious injury or death of a child or serious sexual abuse and invariably involve lengthy finding of fact hearings.

In spite of our poor performance against PSA4 in this area of work, feedback from practitioners who use the Court is positive. Recently a Guardian commented as follows:

"I think if it (the care protocol) had been adhered to, the wrong decision could have been taken. There would have been insufficient time for the child's mother to come to the realisation of the changes she needed to make..."

In the period 1<sup>st</sup> January 2005 – 30<sup>th</sup> September 2005 34 cases were concluded after 40 weeks, but of those cases 14 had a positive outcome, with the children being reunited with their families.

Reasons for delay and for adjournments are recorded on the face of the order. A summary of cases exceeding the protocol time limit is maintained and regularly reviewed by the listing officer and the DFJ. In almost every case the delay is purposeful delay in the interest of the children and has had a positive outcome in favour of the children whether they are returned to their family or achieve permanent placement outside the family.

On 20<sup>th</sup> November 2005 the Local Family Justice Council held a conference on Dealing with Delay. The action plan arising from this event is at Appendix 1, the Briefing paper at Appendix 2.

Prior to the conference Judge Darwall-Smith DL prepared a summary of the principal causes of delay at Bristol Care Centre and the strategies for addressing delay. These are set out below with comments as to further action taken in italics:-

#### The principal causes of delay as at November 2005

- **Late transfer from the FPC:** in 2004 this was a considerable problem which was addressed following a meeting with FPC representatives and the DFJ and those directly involved with public law hearings at the Care Centre in November 2004. The situation has improved significantly in 2005 *and is monitored on a regular basis.*



- **Lack of availability of Guardians:** during 2005 delay in appointment of Guardians ranged from 6 – 14 weeks. Since August 2005 the position has improved dramatically following the appointment of new practitioners. Guardians are now appointed within the Protocol time limit and it is hoped this will continue. There is excellent cooperation between CAFCASS and the care centre. *Discussions between Cafcass and the care centre take place on a regular basis.*
- **Lack of judicial availability:** there is an urgent need for a further circuit judge to deal with public law cases in Bristol for between 70 – 100 days per year. *His Honour Judge Bromilow has now been appointed and 60 additional sitting days have been agreed.*
- **Split hearings:** lengthy fact finding hearings cause delay. Split hearings must be conducted by the same judge; therefore fact finding hearings are heard by a limited number of Judges who sit in family for the majority of the time. This creates listing difficulties. *The Designated Family Judge and the FLBA held a conference on 21<sup>st</sup> March 2006 entitled Best Evidence in Children Act Proceedings which addressed some of the problems.*
- **Lack of availability of experts:** experts who undertake court work are drawn from a reasonably small pool. As a result of the pressure of work, they may be unable to file reports to meet the case timetable. Final hearings may be adjourned as a result. *A planning meeting was held between the Designated Family Judge and local experts on 6<sup>th</sup> March 2006 to expand the pupillage scheme currently operating at the care centre and arrange training events for specialist registrars.*
- **Lack of adequate court and office facilities:**  
The court building does not provide sufficient conference space; it has wholly inadequate facilities for people with disabilities or vulnerable witnesses. There is no immediate access between the court and offices. This can create delay, e.g. in transfer of files. The provision of email has improved communication.  
A new court building is urgently required and has been promised for many years.

#### **Current strategies for addressing delay November 2005:**

- **The Avon Somerset and Gloucestershire FJC has focused on delay.** The FJC currently includes two subcommittees to promote good practice and prevent delay. The committees are; training and education, performance and business. A new Experts sub-group is in the process of being set up.
- **Interdisciplinary cooperation between the care centre the FPC, CAFCASS and the police** has resulted in many issues of concern being addressed including the problem of late transfer and lack of Guardians. Judge Darwall-Smith DL intends to sit at Bristol FPC for an occasional day to hear cases and liaise with the magistrates and the two DJ [Magistrates Court].  
Magistrates and FPC staff continue to be invited to the care centre to sit with judges to observe care cases
- From December 2005 **District Judges’ conduct directions hearings prior to PHR, some contested Interim Care Order applications and s.38.6 applications [for assessments] in appropriate cases.**

This enables Circuit Judges to complete final hearings within the allotted time without interruption. There will be regular liaison between the DJs and the DFJ as to the appropriate level at which cases should be heard. It is hoped that 3 DJs in Bristol will be approved to deal with some final hearings under the new rules. Two half days per week have been allocated for directions hearings before a DJ.

- **Cases suitable for transfer to the FPC:**  
At the 1<sup>st</sup> meeting of the Performance & Business subcommittee [local FJC] it was agreed that the DJs would consider whether the case was suitable for transfer to the FPC at the earliest directions hearing and keeps the question of transfer under review.  
The committee identified the following cases as suitable for transfer to the FPC: private law Christmas contact applications; public law discharge of CO applications & applications for contact to a child in care. The FPCs have capacity to hear more family cases. It was agreed that delay would be reduced if the DJs & the FPC undertook more family work in order to ensure that time was available for complex cases to be dealt with in the Care centre
- **Accurate statistics:** Malcolm Richardson, Chair of North Avon Bench and member of the national FJC, agreed to raise this issue with the national performance board. The local committee expressed concern that the system and basis for monitoring care cases varies in different areas and between the care centre and FPC. Figures are collected e.g. as to the date of completion of cases where a final Care order or supervision order was made. They do not appear to take account of successful outcomes where the children are returned to their parents without the need for a court order. The County Court figures are based on the final conclusion of the case in respect of all the children. The figures do not reflect cases in which a final decision has been made for one or more of the children but the case continues in relation to another child. In the FPC the figures are collated for each child, this provides a different picture and makes comparison with performance at different levels of court very difficult.  
In some areas many more straightforward cases are transferred immediately to the care centres, whereas in the Bristol area only the most complex cases are transferred. These cases take longer to complete as a result of the need for assessments, disagreement between experts or mental health difficulties, or a combination of these issues. The Bristol figures therefore compare unfavourably with other courts e.g. Leeds care centre.
- **DJs visit to other care centres:** DJ Exton and DJ Stuart Brown sat with a DJ in Leeds to investigate whether different procedures could be adopted in Bristol. It was a positive exercise. Most of the practices were similar in both courts. Following the practice in Leeds, on renewal of an Interim Care Order, the DJ will check that the directions timetable has been complied with and will investigate any delay at an early stage.  
Judge Darwall- Smith DL will liaise with the FPCs to ensure that similar procedures are adopted in the care centre & FPC
- **Court orders: monitoring delay:**  
The Designated Family Judge has directed that the **reasons for delay and reasons for adjournment of final hearing** should be recorded in the court order. This assists Rebecca Cobbin, senior listing officer, in

producing a schedule of all cases exceeding the Protocol time limit and the reasons for doing so.

The Designated Family Judge has also requested that the court order includes the **Protocol week number** after each hearing date.

- **Experts:**

It has been agreed that the FPC and the care centre should adhere to appendix C of the Protocol when considering the instruction of an expert and ensure that experts are not instructed in cases where it is more appropriate for the Guardian or social worker to carry out an assessment. The court will question the need for an expert in each case. When an expert is required the court will ensure that the appropriate discipline is identified and that the letter of instruction focuses on the relevant issues.

The local FJC includes in its membership Dr Tim Chambers, consultant paediatrician and member of Bristol family panel and Dr Jane Schulte consultant paediatrician.

Bristol care centre takes part in Lord Justice Thorpe's pupillage scheme for experts. Trainee experts are encouraged to attend court to observe proceedings.

- **Disclosure protocol with the Police:**

Following a meeting between representatives of the care centre, the FPC and the police, a protocol now operates to provide efficient procedures for disclosure of police statements and information as to criminal proceedings

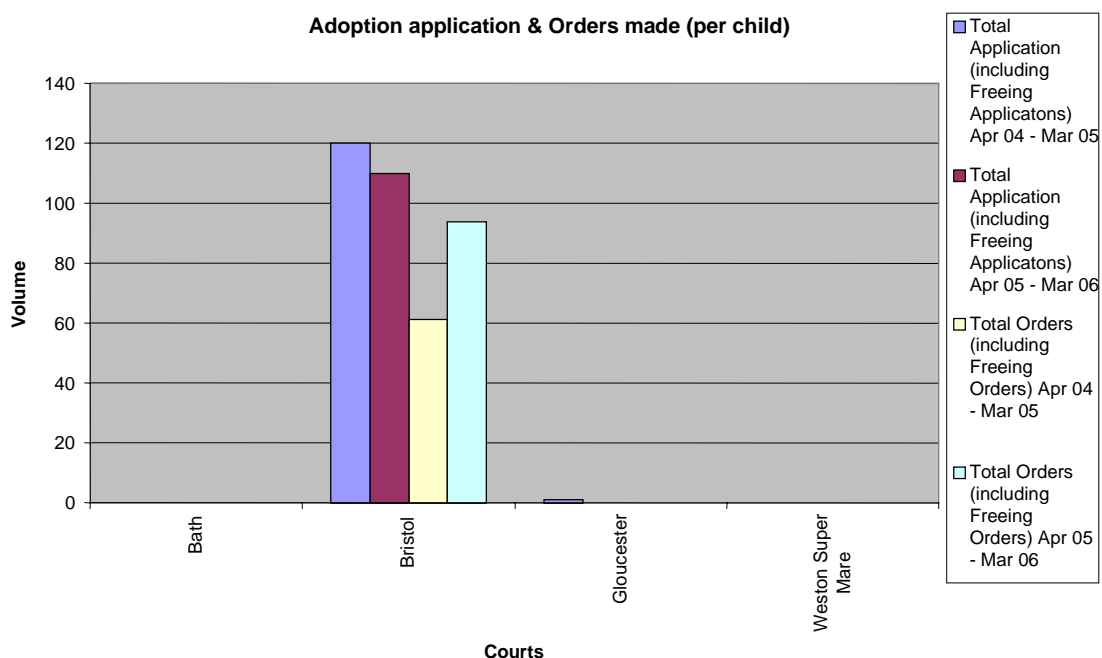
- **Concurrent criminal and care proceedings:**

There is effective liaison between the crown court and family listing sections. Directions hearings in both courts are listed on the same day to ensure that care cases are not unnecessarily delayed as a result of a criminal trial and to monitor disclosure.

## ADOPTIONS

### Adoption and Freeing Applications & Orders (per child)

Court	Total Application (including Freeing Applicatons)		Total Orders (including Freeing Orders)		% of Orders <=20 weeks (Excluding Freeing Orders)	
	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06
Bath	0	0	0	0	0.0%	0.0%
Bristol	120	110	61	94	71.1%	76.9%
Gloucester	1	0	0	0	0.0%	0.0%
Weston Super Mare	0	0	0	0	0.0%	0.0%
<b>Bristol Total</b>	<b>121</b>	<b>110</b>	<b>61</b>	<b>94</b>	<b>71.1%</b>	<b>76.9%</b>



Bristol County Court processed 76.9% of cases within 20 weeks between April 2005-March 2006. A total of 65 orders were made including 3 step-parent adoptions, 2 foreign adoptions, 56 placements and 4 Adoption and Children Act 2002 orders. We are concerned that Bristol Social Services have only 0.25 of a member of staff allocated to step parent adoptions and have indicated that they can only take 6 referrals this year. This policy will cause huge delay and the matter will be addressed in a meeting between the Social Services Team Manager and the Designated Family Judge and Judge Barclay on 25 April 2006. It is proposed that Judge Barclay will assume overall responsibility for Adoption work and will meet regularly with the adoption clerk, Scott Britnell to monitor new procedures under the Adoption and Children Act.

Bath FPC issued 12 adoption applications in the calendar year 2005 and 5 final orders were made in that year.  
 Bristol Family Proceedings Court issued 16 adoption applications in 2005 and 13 orders were made.  
 Gloucestershire Family Proceedings Court received 28 adoption applications in the year April 2005 – March 2006 and made 18 adoption orders in the same period.

## FAMILY LAW ACT INJUNCTIONS

### Family Law Act Injunctions

Description (Per Case)	MIS Volume	Apr 04 - Mar 05	Apr 05 - Mar 06
Issue Family Law Act Injunction	MIS Volume: Includes Occupation Orders & Non Molestation Orders	639	676
Injunction Order - No Power Arrest	MIS Volume: Includes Occupation Orders & Non Molestation Orders	77	47
Injunction Order - Power Of Arrest	MIS Volume: Includes Occupation Orders & Non Molestation Orders	1248	1239

## DIVORCE

### Ancillary Relief

Court	Ancillary Relief Applications		Ancillary Relief Consent Orders	
	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06
Bath	146	214	64	87
Bristol	1163	1152	285	295
Gloucester	1051	837	640	991
Weston Super Mare	186	198	158	149
<b>Bristol Total</b>	<b>2546</b>	<b>2401</b>	<b>1147</b>	<b>1522</b>

District Judges in Bristol sit on divorce matters for at least 2.5 days per week. One day each week is to deal with first directions appointments and financial dispute resolution hearings and other short appointments. The remaining time is allocated to substantive ancillary relief hearings. District Judges are booked on an ad hoc basis to deal with lengthier hearings. To take June 2006 as an example, 6 additional days have been allocated to divorce work.

Approximately 20 ancillary relief appeals are received each year from across the Circuit, as until recently there has been no Judge with the necessary authorisation in Gloucester, Taunton and Yeovil. The Honourable Mr Justice Coleridge has agreed that ancillary relief appeals can be released to His Honour Judge Bromilow on a case by case basis when he is sitting in Taunton.

Gloucester County Court issued 1555 divorce petitions between April 2005 – March 2006 and their District Judges spend approximately 5 days per week on ancillary relief hearings.

## TRANSFERS OUT

### Transfer Out of Proceedings both Public and Private Law

Court (Per Case)	Lateral Transfer To County Courts		Transfer Out Down FPC		Transfer Up To High Court	
	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06	Apr 04 - Mar 05	Apr 05 - Mar 06
Bath	64	48	0	0	0	0
Bristol	120	85	4	17	4	3
Gloucester	61	11	1	0	7	0
Weston Super Mare	37	27	0	1	2	0
Bristol Total	282	171	5	18	13	3

## LOCAL FAMILY JUSTICE COUNCIL

The Avon, Somerset and Gloucestershire Local Family Justice Council comprises the following membership

Her Honour Judge Darwall-Smith DL	Designated Family Judge/Chair
District Judge Daniel	District Judge, Bristol County Court
District Judge Exton	District Judge, Bristol County Court
District Judge Stuart-Brown	District Judge, Bristol County Court
District Judge Adam	District Judge, Bath County Court
District Judge Goddard	District Judge, Gloucester County Court
District Judge Dowell	District Judge, Taunton County Court
Elaine Laken	Justices Clerk, Bath FPC and National FJC Member
Ian Bloxham	Bristol Family Mediation
Sue Cameron	North Somerset FPC
Dr T Chambers	Paediatrician and Magistrate, Bristol
Sue Davies	Bath and North East Somerset Council
Linda Ind	Bath and North East Somerset Council
Joanne Hastie	Legal Adviser, Bristol FPC
Professor Marianne Hester	Policy Studies, Bristol University
Richard Howell	SFLA, Barcan Woodward
Hilary Davison	Chair Gloucestershire FPC Panel
Claudia Lank	Senior Lawyer, Bristol City Council
Judith Masson	Bristol University
Rosemary Gallagher	North Somerset Council
Malcolm Richardson	Magistrate North Avon FPC and National FJC Member
Lorraine Sherman	North Somerset Council
Trevor Simpson	Service Manager, Cafcass, Bristol
Spencer Hird	Service Manager, Cafcass, Bristol
Sarah Tate	Cafcass, Gloucester
Charmain Oliver	Gloucestershire Looked After Children Team
Jo Killick	Contact Matters Supervised Contact Centre
Mrs Gunn	Bristol Contact Centre
Debra Dinan-Hayward	Barrister, Albion Chambers, Bristol
Sue Jacklin	Barrister, St John's Chambers, Bristol
Caroline Bodington	Court Manager, Bristol Care Centre
Rebecca Cobbin	Family Section Manager, Bristol Care Centre
Jennifer Brown	Forces Solicitor, Gloucestershire Constabulary
Geraldine Connor	Legal Adviser, Gloucestershire FPC
Dr Jane Schulte	Consultant paediatrician

There are two sub-committees of the Local Family Justice Council, the Performance and Business Committee and the Training Committee.

The private law framework and domestic violence committee is yet to be formed

**Membership of the Performance and Business Committee is as follows:**

Elaine Laken	Chair
Her Honour Judge Darwall-Smith	Designated Family Judge
Malcolm Richardson	Magistrate, North Avon FPC
Sarah Tate	Service Manager, Cafcass
Spencer Hird	Service Manager, Cafcass
Geraldine Connor	Legal Adviser, Gloucestershire FPC
Claudia Lank	Bristol City Council Senior Lawyer
Jo Hastie	Legal Adviser, Bristol FPC
Caroline Bodington	Bristol Care Centre Court Manager
Rebecca Cobbin	Bristol Family Section Manager

**Membership of the Training Committee is as follows:**

Elaine Laken	Chair
Claudia Lank	see above
Jo Hastie	see above
Richard Howell	SFLA

The Local Family Justice Council was launched on 11<sup>th</sup> July 2005 and has held two successful conferences, the first on the issue of Delay and the second on Domestic Violence. Action plans have been devised as a result of the feedback from these conferences.

**SUMMARY OF ISSUES CONSIDERED BY THE AVON, SOMERSET AND GLOUCESTERSHIRE LOCAL FAMILY JUSTICE COUNCIL**

**1) LAUNCH MEETING – 11<sup>th</sup> JULY 2005**

At the launch meeting on 11<sup>th</sup> July 2005 it was decided that two sub-committees would be formed, the first to consider Performance and Business and the second to consider Training. In due course consideration will be given to the formation of a third sub-committee to look at the Private Law Framework and Domestic Violence.

At the first meeting, the Senior Lawyer at Bristol City Council, Claudia Lank, and the Bristol City Council Social Services Manager for Bristol South gave a presentation on "The use of experts in care proceedings – why are we still so dependant on expert assessment and reports?" They had analysed 76 care cases commenced between 1 November 2002 and 31 October 2003.

They felt that social workers were undermined in the court process and questioned why expert evidence could not be given by a social worker or the guardian. They also commented that very few multi-agency assessments were completed at an early stage, this problem being exacerbated by the late appointment of guardians in Avon, Somerset and Gloucestershire early in 2005.

Budgetary considerations were a significant factor for the local authority.

Representatives from the SFLA and the Bar felt that there would be a perceived lack of independence if social workers were to provide expert evidence.

The Local Family Justice Council felt it would be helpful if the Local Authority and Cafcass were to advise at the outset of the fields in which the social worker(s) and



guardian were competent. The Council felt that the Local Authority should be setting out in its threshold document where there were gaps in the evidence and that the Guardian should be auditing the evidence in each case.

Adherence to Appendix C of the Protocol was raised and this has been an issue to which the Local Family Justice Council has returned at subsequent meetings.

At a future meeting Claudia Lank is to report on outcomes for those families whose cases she analysed and is to advise on whether the expert evidence in cases helped parents to accept the decision of the court.

## **2) Performance and Business Sub-Committee meeting on 8<sup>th</sup> September 2005**

At the first meeting of the Performance and Business Committee on 8<sup>th</sup> September 2005, it was agreed that the purpose of the sub-committee was:

- i) to seek to reduce delay in Public and Private Law;
- ii) to promulgate good practice;
- iii) to identify obstacles preventing satisfactory performance.

It has been difficult to interpret the data available on performance, and the data held on the Care Protocol Monitoring System is clearly unreliable. This issue has been raised with John Bowman of the PSA 4 Reducing Delay Programme Office, who advises that a Data Quality Package is shortly to be launched by Sir Ron de Witts.

The Sub-committee also considered the transfer of work between the Care Centre/County Court and Family Proceedings Court, as several of the FPCs are reported to have spare capacity.

The District Judges at the Care Centre have undertaken to consider the issue of transfer to the FPC at the first directions hearing, but the issue of transfer is complicated by the different levels of remuneration for advocates.

## **3) Conference on Delay – 21<sup>st</sup> November 2005**

The Conference, chaired by Her Honour Judge Darwall-Smith DL, was attended by Lord Justice Thorpe and approximately 50 delegates from all areas of the family justice system, including family lawyers, magistrates, police, expert witnesses, guardians, social workers and the Mediation Service. Lord Justice Thorpe addressed the conference at the conclusion of the workshop discussions.

Please refer to the attached conference report at Appendix 1

## **4) Meeting of the Performance and Business Sub-Committee 1<sup>st</sup> December 2005**

The Sub-Committee considered the recommendations of the "Every Day Matters" Consultation paper and the Domestic Violence Toolkit/Inspectorate Report on HMCS/Cafcass. The Cafcass representative on the Committee stressed the need for a more systematic approach by Cafcass in completing risk assessments and the need for strong links with local authorities.

It was agreed that this issue will be considered at the Local Family Justice Council's next full meeting/conference on 20<sup>th</sup> March 2006.

## **5) Experts Meeting on 6<sup>th</sup> March 2006**

Between Her Honour Judge Darwall-Smith DL and Dr Jane Schulte, Dr Deborah Barff, Dr Tamsyn Nicole consultant paediatricians and Dr Philip Shoebridge, consultant child and adolescent psychiatrist to discuss the extension of the mini-pupillage scheme for specialist registrars. It was agreed that, in addition to specialist

registrars sitting with the judges to observe proceedings, Judge Darwall-Smith and Judge Barclay would hold a question and answer session at court for specialist registrars and any consultants who wished to attend. Arrangements are in hand for this to take place in the early autumn. Judge Darwall-Smith proposed that the experts should organise a conference in 2007 for the local FJC addressing issues in relation to experts. There is also a plan to have an Experts' sub-group on the Local Family Justice Council to focus on the use of experts in 2006/7.

**6) Conference on Domestic Violence: Safeguarding Children and Vulnerable Adults in Public and Private Law proceedings – 20<sup>th</sup> March 2006** including a presentation from Professor Marianne Hester, expert on Domestic Violence and gender issues. A report from the Conference Organiser, Elaine Laken follows below:

On 20<sup>th</sup> March 2006 a conference was held by the Avon, Somerset and Gloucestershire Local Family Justice Council looking at the policy and practice when dealing with cases involving domestic violence within court proceedings. The title of the conference was “Domestic Violence Conference – (Safeguarding Children and Vulnerable Adults in Public Law proceedings).

Before the conference, delegates were sent a questionnaire the purpose of which was to collect information and provide a “snapshot” of the current practice and policy (good and bad) in their respective organisations. The findings from the questionnaire were shared with delegates prior to the conference to stimulate and inform discussion on the day.

A wide range of organisations with different purposes and responsibilities attended the conference and as a consequence there are a diverse range of issues raised.

### **The Context of this Conference**

The report produced by the Her Majesty's Inspectorate of Court Administration in October 2005 called, “Domestic Violence, Safety and Family proceedings” evaluated evidence about how well Her Majesty's Court Service (HMCS) and the Children and Family Court Advisory and Support Service (Cafcass) deal with the cases involving domestic violence in court proceedings. The findings of the report make salutary reading and the report makes a series of helpful recommendations. As one would expect many of the issues highlighted in the HMICA report are themes that have emerged from the questionnaire and the conference.

It is possible that many of the issues identified in the HMICA report that relate to HMCS and Cafcass are also of relevance to the wider group of organisations involved in court proceedings and that the findings of the HMICA report may inform changes to their own policy and practice. It is also likely that the shortcomings raised in the HMICA report and at the Avon, Somerset and Gloucestershire Local Family Justice Council will require an inter-agency response if they are to be tackled effectively.

## **The Conference Programme**

The conference was opened and closed by Her Honour Judge Darwall-Smith DL. There followed brief presentations from:

- Professor Judith Masson (Bristol University)
- Professor Marianne Hester (Bristol University)
- Elizabeth Hall, Regional Director, Cafcass (Safeguarding and Domestic Violence Portfolio)
- Mike Nichols, Crown Prosecution Service (Lead for LCJB on Domestic Violence).
- Elaine Laken, Clerk to the Justices

In the afternoon delegates were divided into small multi-disciplinary groups and asked to consider four case studies. The groups were asked to identify the “problems and barriers” they would confront in dealing with the case study and any “good” ideas that may help address these problems. Not all groups managed to make a response to all the case studies although all the case studies were covered. The groups then gave feedback to the conference. Additionally, each delegate was asked to return a form to the LFJC setting out actions they would be taking as a result of the conference. When these forms are completed, an action plan will be drawn up by the LFJC.

### **7) FLBA conference ‘BEST EVIDENCE IN CHILDREN ACT PROCEEDINGS’**

Gathering it; Preserving it; Presenting it; 21 March 2006. Chaired by HH Judge Darwall Smith, speakers Susan Jacklin, Barrister, Brenda Robinson expert witness in child abuse cases (see Appendix 6).

## Appendix 1

### Avon, Somerset and Gloucestershire Local Family Justice Council Conference on “Dealing with Delay” 21 November 2005

#### Final Report Background

The National Justice Family Council requested all local Justice Family Councils to hold a conference to identify the contributory factors and consider solutions to the ongoing problem of delay in public child care law proceedings.

The half-day conference in Bristol focused on solutions.

In preparation for the conference, a 7 point questionnaire was sent to representatives of all agencies on the local FJC in September 2005. 23 responses were received. The conference began with multi-agency workshop discussions of the main proposals which had been put forward by the respondents to help combat delay.

The action plans set out below are a summary and distillation of the workshop and plenary discussions:

#### **1) The applicants to care proceedings: social workers and local authority lawyers–**

- Identified problem -other agencies’ lack of confidence in social workers and social workers’ lack of confidence in the court process.
- Action - improve the quality of social work assessments and provide more training for social workers on undertaking assessments and the court process.
  
- Identified problem –lack of conformity in the timing of issuing proceedings and unity of thresholds in the 6 local authorities using the court.
- Action – more discussion between the 6 local authorities to develop a higher degree of conformity about the timing of issuing proceedings and unity of thresholds.
  
- Identified problem –Lack of certainty about the threshold.
- Action- produce the initial threshold document at an early stage in the proceedings

#### **2) The Respondents to care proceedings.**

- Identified problem –Courts and local authorities would like written input from the guardian at various stages in the proceedings.
  
- Action –guardians to provide a risk assessment of the impact of delay on each child at an early stage in care proceedings undertake an early scrutiny of local authority evidence, potential family carers, etc, provide interim reports on specific issues, if appropriate.
  
- Identified problem –lack of case management by guardians and child’s solicitor

- Action –guardians to have more active case management duties, e.g. convenor of family group conferences,
- Identified problem - lack of case management by lawyers for parents
- Action: parents and lawyers to be part of contingency planning for the child, e.g. identify alternative carers

### **3) Experts.**

- Identified problem –the non- use of local experts
- Action –develop a protocol/contractual relationship with the local PCTs which encourages and enables the use of local paediatricians, psychiatrists, psychologists, etc.
- Identified problem –the difficulty in identifying suitable experts.
- Action - set up and maintain an expert register to be funded by the experts on the register.
- Identified problem –lack of clarity in the letter of instructions and delays in reports once experts are instructed
- Action - adhere to Appendix C of the protocol so that there is proper instruction of experts to avoid further questions arising after the completion of the report.

### **4) The court system**

- Identified problem –not enough Judges and sitting days.
- *Action –increase the role of District Judges in public law proceedings, increase the number of sitting days for Circuit Judges, transfer more cases down to the Family Proceedings Court.*
- *Identified problem –two tier Court system*  
Action –one Court building for all family cases, on line Court diary and co-ordinated diaries.

### **5) Complex cases**

- Identified problem – the length of proceedings involving split hearings.
- Action –early and clear case management by the Court, judicial continuity, continuity of advocates.
- Identified problem –concurrent care and criminal proceedings.
- Action –consider whether care and criminal proceedings should be tried together in appropriate cases. As a minimum requirement regular liaison between the Care Centre and Crown Court should be maintained where there are concurrent criminal and care proceedings with directions hearings taking place on the same day. Greater co-operation and joint working between social services, police, CPS.

The workshop groups were also asked to consider outcomes for children:

**Outcomes**

- Identified problem –lack of knowledge about outcomes for the child once care proceedings have concluded and questions about how do we identify a successful outcome?
- Action – request to the National Family Justice Council to consider a dedicated task force to assess feasibility of research on outcomes for children/ develop links with local academic institutions to undertake research, particularly on residential placements.

**Conference managed by Claudia Lank, Richard Howell, Jo Hastie and Rebecca Cobbin**

## Appendix 2

### “Dealing with Delay”: Briefing Paper

Avon, Somerset and Gloucestershire Local Justice Family Council Conference on Monday 21 November 2005.

#### **The aim of this conference**

The National Justice Family Council has asked all local Justice Family Councils to hold a conference to identify obstacles and consider solutions to the ongoing problem of delay in public child care law proceedings.

It is intended that this half day conference will focus on solutions and the aim is to conclude the conference with an action plan to be presented to the National Family Justice Council for consideration.

In September 2005, a 7 point questionnaire was sent to representatives of all agencies on the local FJC. 23 responses were received; 4 from the judiciary, 1 from Bristol magistrates, 1 from the County Court office, 2 from the Family Proceedings Courts, 2 from local authority lawyers, 3 from private practice solicitors, 4 from barristers, 1 from CAFCASS, 1 from Gloucestershire constabulary, 1 from social services and 3 from expert witnesses.

The responses to the questionnaire are summarised as follows:

#### **1. Having looked at the statistics provided, does your agency consider that the current duration of care proceedings is a problem for children?**

The majority view was “yes”. However, there was an equally strong view that some cases need to take longer than 40 weeks and that getting proceedings concluded within the timescale was less important than getting the right outcome for the child. One respondent wrote “a case ... takes as long as it takes to make the most informed decision possible.”

#### **2. Does your answer to question 1, depend on the age and circumstances of the child/ren involved?**

There was a general view that the duration of proceedings was more crucial for babies and younger pre-school children, because of attachment and placement needs. However, some respondents also raised the issue of the point at which proceedings were commenced by local authorities with the comment that if proceedings were commenced at an earlier stage there might be fewer entrenched and intractable family issues which contribute to lengthy proceedings.

#### **3. Does your agency have any additional statistics relevant to the issue of delay?**

The statistics provided with the questionnaire:

##### **Bristol Care Centre**

In the year April 2004-2005, only 20.6% of cases were disposed of in 40 weeks and the average waiting time was 60.5 working weeks.

From April 2005-August 2005 38.5% of cases were disposed of in 40 weeks and the average waiting time was 54.1 working weeks.

As of 30 August 2005 the age of public law cases in the system was as follows:

1-5 weeks	3 cases
5-10 weeks	7 cases
10-20 weeks	11 cases
20-30 weeks	16 cases
30-40 weeks	21 cases
40-50 weeks	8 cases
50-60 weeks	11 cases
60-75 weeks	6 cases
Over 75 weeks	11 cases

In the **Bristol Family Proceedings Court**, protocol cases issued since 1st October 2004 and outstanding at end September 2005.

1-10 weeks	3 cases
11-20 weeks	14 cases
21-30 weeks	11 cases (1 should conclude in 2005)
31-40 weeks	4 cases (1 should conclude in 2005)
41-50 weeks	6 cases (5 should conclude in 2005)
51-60 weeks	1 case (which should conclude in 2005).

Further, there are 4 cases issued since the introduction of the protocol (November 2003), which exceed 60 weeks.

These 4 are due to conclude by the end of 2005 with the children all being maintained within the birth family.

Additional statistics from respondents:

**Current statistics from the Bristol Care Centre:**

Approximately 80 new cases are transferred to the Bristol County Court each year. There are approximately 90 current public law cases for hearing at the County Court. The percentage of cases concluded in the 40 weeks has increased from 20.6 in the year to April 2005 to 50% for July and August 2005.

In the year to date (1.01.05 to 30.09.05) 34 cases were concluded after 40 weeks. Of those cases 14 had a positive outcome the children being reunified with their family.

Since June 2005, **Taunton Care Centre** has noted 4 cases continuing over a year.

**CAFCASS** – the average delay for appointing children's guardians from January to August 2005 was 30.5 days. From August to end October 2005, the average delay was 0.9 days.

Two respondents commented the local and national statistics need to be collated in a coherent and unified way.

**4. In the view of your agency, what are the principal causes for delay?**

The same principal causes were identified by many of the respondents, with the most frequently identified causes being at the top of the following list and the less frequently identified causes being at the bottom:

The use (?overuse in the views of many respondents) of **expert** witnesses, availability of properly identified expert witnesses and time taken to complete reports,



linked to the variable quality of social work assessments and lack of status of social work assessments.

The number of **residential assessments** and s38(6) hearings.

The lack of availability of **guardians** and consequent delays in appointing guardians, (now improved).

The lack of **judicial availability**, lack of judicial continuity and lack of adequate court and office facilities in the Bristol care centre.

The lack of **social work availability** resulting in delays in the completion of social work assessments of parents and serious delays in the assessments of the increasing number of relatives proposed as potential carers.

**Split hearings**, linked to judicial availability and also to concurrent care and criminal proceedings and disclosure of information from the police.

The increasing **complexity** of cases and the need to gather and scrutinise all the evidence, linked to the increasing complexity of the issues, for example mental health issues and cases with an international element.

**Late transfer** from the Family Proceedings Court, (now improved.)

Insufficient **continuity of advocates**, with barristers being instructed at a very late stage and disagreeing with previously agreed time estimates for final hearings, requiring further disclosure of documents, transfer to the County Court, etc.

**Lack of planning** by local authority and private practice solicitors at an early stage.

## **5. Does your agency have any strategies for addressing the issues of delay?**

## **6. What remedies does your agency propose to address the issue of delay and what resources would be required to do so successfully?**

The answers to these two questions will form the basis for the workshop discussion on 21 November, with the organisers having identified 6 topics for discussion by the workshop groups. The topics and some of the proposals from the respondents to the questionnaire are set out below:

### **ii) Experts –**

- improving multi-disciplinary working at an earlier stage and encouraging the use of local paediatricians, psychiatrists/psychologists, etc. to undertake reports.
- setting up and maintaining an expert register to be funded by the experts on the register,
- direct employment of experts by CAFCASS,
- consultant child and adolescent psychiatrists having programmed session allocated to court work,
- proper instruction of experts to avoid further questions arising after the completion of the report.
- adhering to Appendix C of the protocol

### **iii) Social workers and local authority lawyers–**

- improving the quality of social work assessments available at an early stage to reduce the use of experts.
- developing a higher degree of conformity about the timing of issuing proceedings and unity of thresholds.
- producing the threshold document at an early stage in the proceedings
- more training for social workers on undertaking assessments and the court process.

- iv) **The court system –**
  - *increasing the role of District Judges in public law proceedings,*
  - *transferring cases down to the Family Proceedings Court,*
  - *increasing the number of Circuit judges*
  - provision of more Court space and office space.
  - *Online Court diary to improve listing.*
  
- v) **The child's Guardian–**
  - providing a risk assessment of the impact of delay on each child at an early stage in care proceedings.
  - undertaking early scrutiny of local authority evidence, potential family carers, etc.
  - providing interim reports.
  
- vi) **Complex cases –**
  - re-considering the value of split fact finding hearings, particularly in the absence of successful criminal prosecutions,
  - improving the disclosure of evidence when there are concurrent criminal proceedings,
  - ensuring continuity of advocates.
  
- vii) **Outcomes –**
  - Improving our knowledge on what is a successful outcome for a child,
  - developing some research and feedback on outcomes, particularly following residential assessments, and expert reports
  - reducing the number of children who are subject to more than one set of care proceedings

7. Are there any additional points that your agency would like to make in relation to delay?

A number of respondents emphasised the commitment and experience of all professionals involved in care proceedings and re-iterated the importance of obtaining the right outcome for the child, even if this could not be achieved within the timescales.

**Report prepared by Claudia Lank of Bristol City Council**

## **Appendix 3**

## **ATTENDEES FOR CONFERENCE ON DELAY – 21<sup>ST</sup> NOVEMBER 2005**

Lord Justice Thorpe	
Susan Darwall-Smith	Designated Family Judge
Paul Barclay	Deputy Designated Family Judge
Gillian Stuart-Brown	District Judge, Bristol Care Centre
Julie Exton	District Judge, Bristol Care Centre
David White	Taunton County Court
Malcolm Richardson	Magistrate, North Avon
Elaine Laken	Justices Clerk, Bath FPC
Jenny Reid	Family Panel JP
Brian Knowles	Chair, Gloucester FPC Panel
Hilary Davison	Deputy Chair, Gloucester FPC Panel
Chris Skilton	Legal Adviser, Taunton Deane
Spencer Hird	Service Manager, Cafcass
Carolyn Reader	Guardian
Sarah Stott	Guardian
Jane Roberts	Guardian
Claudia Lank	Bristol City Council Legal Team
Victoria Wilson	South Gloucestershire Council Legal Team
Honor Clarke	Somerset County Council Legal Team
Jo Hastie	Bristol FPC Legal Adviser
Mrs Shrimpton	Chair, Bristol FPC Panel
Jennifer Brown	Solicitor, Gloucestershire Police Force
Richard Howell	SFLA
Paul Foster	SFLA
Jim Gridley	SFLA
Chris Goulden	SFLA
Sabina Bowler-Reed	SFLA
Alison Brockway	Team Manager, Bristol Social Services
Trish Hudson	Team Manager, Bristol Social Services
Claire Wills-Goldingham	Barrister
Louise Price	Barrister
Claire Rowsell	Barrister
Tacey Cronin	Barrister
Sue Jacklin	Barrister
Nigel Blagg	Expert Witness (psychologist)
Sam Westmacott	Expert Witness
Hilary Tobin	Expert Witness
Jane Schulte	Expert Witness (Paediatrician)
Robert Meller	Expert Witness, (Psychiatrist)
Ian Bloxham	Bristol Family Mediation
Caroline Bodington	Court Manager, Bristol County Court
Rebecca Cobbin	Bristol County Court Family Section
Geraldine Connor	Gloucester Family Proceedings Court
Dave Wasley	Gloucestershire Constabulary
Sue Davies	Bath and North East Somerset Legal Team
Charmain Oliver	Gloucestershire Children's Services Manager
Carole Joyner	Gloucestershire County Council Legal Team
Kathleen Houston	Gloucestershire Social Services
Diane Burgoyne	Bristol City Council Legal Team
Douglas Adam	District Judge, Bath County Court.

## Appendix 4



### Contact Matters, Bristol

#### Brief update on the court matters service for the court business meeting 11.07.05

To date Contact Matters have received 46 enquiries. Some of these have been general enquiries requiring information or signposting to other services. These enquiries came from the following sources

Solicitor	Self	CAFCASS	Other agency. Please include number and detail.
21	10	11	1- Nursery Teacher 2- Children and Family Centre 1- Social Services

Of these enquires some have progressed into completed referrals others are still outstanding.

Number of completed referrals	Number of Private law cases	Number outstanding awaiting return of forms
16	16	9

The reasons for the family to be referred are shown in the following table. Obviously from the figures some families have more than one issue relating.

Parental Relationship Breakdown	Poor Parenting	Mental Health	Drug or Alcohol Abuse	Possible Abduction	Child Protection	Domestic Abuse
17	4	4	5	2	6	10

The children ages are shown in the following table

Age Band	Female	Male	Disabled Children
0-2	4	2	1
3-4	5	4	2
5-7	5	6	0
8-11	2	2	1
12 +	1	0	1
<b>Total</b>	<b>17</b>	<b>14</b>	<b>5</b>

The ethnicity of the referred families are shown below

Ethnic Origin	White British	Other white	White / Caribbean	Mixed White Black African	Black African	Black Caribbean
Numbers	25	2	3	3	2	2
Ethnic Origin	Asian					
Numbers	2					

Reasons for referrals not ending in a service being provided

Referral not agreed understood by Parent / Parents	Number where families found alternative solutions/ other services	Children not wanting contact to take place	Non co-operation by one or both parents	Other <i>Please specify</i>
5	1	1	3	3 Prior to service opening
	3 supported contact agreed			6 out of the area 1 Public Law 1 service timescales 1 Not able to meet child's needs

The project held an official launch on the 24<sup>th</sup> May 2005 and has received a number of referrals since this date.

We have now secured five child-focussed venues throughout the city and are in discussions regarding two more venues. This allows the project to offer associate contact depending on the families' needs and location.

To date we have had a number of referrals to facilitate indirect contact and a handover service. This is something that we recognise the need for and are considering developing such services. The challenge with indirect and 'letter box' contact is that this would need to be offered for a longer period of time and we currently only have secured funding until March 2006.

On a more positive note the DfES who currently fund us have informed us that there is provision made for further funding until 2008. We have submitted a report to them and hope to get a decision in September as to the possibility of this funding.

### **Conclusion**

Although we have only been operating for a short time and as yet have not secured funding beyond March 2006, we have shown that there is a real need for this service both within Bristol and surrounding areas.

We acknowledge that some families have not pursued a referral as they believe the assessment process take too long. We have considered how we can reduce this time, however this has not always been easy due to the information sharing from other agencies. We have managed to process referrals more quickly when we receive full information from referrers, when the referral is from Cafcass or when we receive court bundles.

We are grateful for all the support we have received from professionals and agencies. We have been relatively successful in raising the awareness of the project and have received much interest from various agencies. We recognise that the service needs to continue to develop to meet the needs of the children and families we serve.

The service is still not operating at full capacity, we currently have a few vacancies. If you require further information or wish to make a referral please contact:

**Contact Matters, Bristol**  
**NCH South West Region**  
**Horner Court**  
**637 Gloucester Road**  
**Bristol**  
**BS7 OBJ**  
**0117 9354440 or**  
**email [contact.bristol@nch.org.uk](mailto:contact.bristol@nch.org.uk)**

## **APPENDIX 5**

### **CAFCASS**

A summary of the work of Cafcass as at 26<sup>th</sup> April 2006 in the Avon area is set out below:

#### **Report to Avon, Somerset and Gloucestershire Local Justice Council Performance and Business sub-committee Meeting 26th April 2006**

##### **Introduction**

This report constitutes a summary of the work of CAF/CASS in the former Avon area and Somerset (including North Devon).

##### **Avon**

Since August 2005 CAF/CASS has been able to meet the public law protocol in the majority of cases. If it has not been possible to nominate a children's guardian to a case for an initial hearing we have been able to cover that hearing with an arrangement set up using a group of practitioners. This cover has also ensured that a children's guardian has attended all EPO applications that have occurred in the Avon courts over the same period. Both features are a sign of the significantly improved service that CAF/CASS has been able to offer having eradicated the waiting list that had bedevilled the organisation for two years previously.

From 30<sup>th</sup> August 2005 to 19<sup>th</sup> April 2006 73.9% of all care applications were allocated within 2 days and 21.8% within 3-7 days. The average delay before appointment for all public law applications was 2.2 days.

During the 2005/6 financial year CAF/CASS received orders for 28 Section 7 reports from Avon FPCs. 20 of those cases came from Bristol FPC. Although demand for Sec 7 reports is down locally, taking account of county court requests as well, there has continued to be a waiting list of referrals throughout the period since the last report. The figure has oscillated between a handful and 30, the current figure being 15. At one point when it appeared that the waiting list was on the verge of disappearing the Avon team took on 20 cases from adjacent areas that were even more hard pressed. Currently, the filing time for Sec 7 reports is 14 weeks and this usually guarantees a report is filed on time rather than asking for extensions thus causing delay and disruption to the process.

There have been exploratory discussions with Mrs Laken with regard to the implementation of the Private Law Programme (PLP) in Avon FPCs. The consensus at our meeting was that, largely, the current CAF/CASS provision covered many parts of the PLP. However, to fall in line with the county court provision there were discussions as to how the Interviewing Children Scheme (ICS) might be implemented within FPCs. That is still a matter of discussion at the time of writing.

## Somerset and North Devon Team

The Somerset and North Devon Team is 1.5 practitioners down due to individuals leaving the organisation and others reducing their hours. This is having an impact on allocation which has resulted in a small backlog of private law cases and on occasions a delay in allocating a children's guardian in public law cases. CAFCASS National Office has agreed that another practitioner can be recruited. However, this will not go ahead until the actual 2006/7 budget for the team is known.

The Service Manager's post is currently held by Neil Vincent who was seconded to the post on a 6 month basis on the 17 October 2005. This secondment has been extended for a further 6 months from the 17 April 2006.

Referrals for care proceedings and other public law cases continue on the whole to come in at a steady level. Over the last 12 months this has been at a rate of approximately 7 requests a month. In almost all cases, we are meeting the Protocol requirements. However, as of the 20<sup>th</sup> April 2006, there are two new public law cases which are being covered at the initial hearings on a duty basis until a practitioner is available to be allocated the case. The team presently holds 58 public law cases.

In private law, the demand for reports over the last year has reduced. At times the waiting list has exceeded 30 cases and filing dates have had to be amended. However, the current waiting list stands at 9 unallocated cases although this number can change very quickly. This reduction in requests from the courts are as a result of the increased use of the extended dispute resolution programme (EDR) and in ensuring that there are duty officers at the three county courts namely Barnstaple, Taunton and Yeovil, during family court days. In Taunton on these days, 2 duty officers are present. This ensures that every case is seen prior to the court hearing.

During the last 12 months we have extended the court duty service to the Magistrates courts although, due to the level of staffing, the number of courts and the geographical area covered by the Taunton Office, it is not a realistic option to provide a CAFCASS officer at every court. However, so far, requests from Magistrates courts for a CAFCASS officer's presence for a particular case have been met and proven to be successful and productive for the families concerned. We will continue with this method of working.

As mentioned previously the continued use of extended dispute resolution (EDR) has reduced the requests for reports. Although the number of inappropriate EDR requests also appear to be growing. The criteria for EDR is that a case identified for this scheme should have no domestic violence or child protection concerns and involve children who are over 10 years of age. The process is that the parents are asked to attend a meeting with their children. A CAFCASS officer sees the parents individually for 30 minutes, then sees the children alone to talk to them about their views of the situation. The children return to school and the parents are seen together in the hope that an agreement can be facilitated. The parents return to court in the same afternoon along with the CAFCASS officer who either prepares a short report on the children's views or gives oral evidence. Children in particular have benefited from a speedy resolution to fundamental issues affecting their lives.

Currently, the Somerset and North Devon Team is introducing the Section 120 policy requirement in that all domestic violence information current or historical is passed to the Local Authority for their information/action. Also all cases (C1s) received by



CAFCASS are having police and social services checks carried out as a matter of course although due to the amount of requests for police checks there is a delay of 6 to 8 weeks before receiving replies from the police.

Throughout the next 12 months the budget will have an impact on the allocation of CAFCASS officers in both public and private law cases in Somerset and North Devon. However, all cases will be dealt with as promptly as possible. This will depend on practitioner availability and the number and nature of requests from courts. The current filing times are dependent on the court i.e. Barnstaple Court is 12 weeks, Taunton Court 14 weeks and Yeovil Court fluctuates between 12 to 14 weeks. Requests for specific areas of work instead of full section 7 reports, where appropriate, will enable cases to be allocated and dealt with more quickly. However, should these specific enquires lead to more relevant or concerning information coming to light the CAFCASS officer will inform the court and seek the court's direction to extend their enquiries as required.

## **Budget**

There are considerable pressures on the National CAFCASS budget - this has the potential to affect the South West region in the current financial year. This is due to the fact that there has been no allowance for inflation in the budget allocation from the DfES for 2005/06. Anthony Douglas, CEO, is making representations with the Minister in the hope of attracting further funding and has introduced a series of measures to cut costs in order that case allocation remains the top priority. Currently this is not significantly affecting service provision other than what is set out above but may start to impact upon the ability to allocate work as the financial year progresses.

## **Contacts**

Please feel free to circulate this report to other magistrates and courts' staff involved in children and family matters who may be interested in its contents. Specific questions can be addressed to any of those mentioned below.

Spencer Hird, Service Manager, Avon Area – Tel: 0117-923-2070  
Trevor Simpson, Service Manager, Avon Area – Tel: 0117-923-2070  
Neil Vincent, Service Manager, Somerset – 01823-330202  
Victoria Penaliggon, Service Manager, Gloucester area – 01452-311888

## **APPENDIX 6**

BRISTOL FAMILY LAW BAR ASSOCIATION

BEST EVIDENCE IN CHILDREN ACT PROCEEDINGS:

**GATHERING IT; PRESERVING IT; PRESENTING IT.**

Tuesday 21<sup>st</sup> March 2006, 9.30 to 4.30 at Ashton Court Estate, Bristol.

9.00 – 9.30 am	Registration and Coffee
9.30 – 9.45 am	Opening address: Her Honour Judge Darwall-Smith
9.45 – 10.15 am	Some Matters of Law: Susan Jacklin
10.15 – 11 am	Interviewing children; preparations for the interview; pre-interview discussions with the child; appropriate training for interviewers: <b>Brenda Robinson</b>
11.00 – 11.30 am	Coffee
11.30 – 12.15 pm	Brenda Robinson's presentation continued
12.15 – 1 pm	Evidence gathering and presentation: Susan Jacklin
1.00 – 2 pm	Lunch
2.00 – 2.30 pm	Preserving evidence: Susan Jacklin
2.30 – 3.30 pm	Discussions in break-out groups
3.30 – 4.15 pm	Open discussion chaired by Her Honour Judge Darwall-Smith
	Feedback from break-out groups and questions.
4.15pm	Closing Remarks: Her Honour Judge Darwall-Smith

BRISTOL FAMILY LAW BAR ASSOCIATION

**REPORT FOR THE FAMILY JUSTICE COUNCIL**

On Tuesday 21<sup>st</sup> March 2006 we hosted a 1-day seminar entitled:

**“BEST EVIDENCE IN CHILDREN ACT PROCEEDINGS:  
GATHERING IT; PRESERVING IT; PRESENTING IT”**

A copy of the programme is attached. The seminar was attended by a multiplicity of professionals involved in child protection work, within and without court proceedings. There were 172 delegates, which included social workers, Guardians, police officers, solicitors employed by local authorities and in private practice, academics, doctors and barristers. The proceedings were presided over by HHJ Darwall-Smith, DFJ at Bristol County Court.

The main aims of the seminar were to assist professionals to understand evidential issues arising in care proceedings, where there are findings of fact to be made in respect of serious allegations of physical and/or sexual assault, with a view to gathering, preserving and presenting evidence in a much more focussed and effective manner than has often been the case hitherto.

Brenda Robinson has extensive experience in training police officers in how to conduct interviews of child witnesses. She is also instructed regularly to assess videoed interviews of children that are to be used in criminal and Children Act proceedings. It was concerning to hear from her how many such interviews are poorly conducted by persons who have received inadequate training, whereby the value of the evidence is significantly diminished. Her experience in this regard was echoed by many other professionals during the day, both formally and informally. Some police officers reported how the resourcing of suitable training was a low priority.

At the end of the lecture notes there appeared the following passage:

“A particular problem – for discussion:

Of particular concern is the situation where, despite the lack of relevant criminal conviction, there may be no Children Act proceedings in the aftermath of the assault because

- the child has died and there are no other children who need protection

- the child or other children are being sufficiently protected by another parent or family member and the alleged perpetrator is not seeking contact.

Subsequently he or she does have another child or becomes involved in the care of a child and a finding of fact hearing becomes necessary to protect that child.

Sometimes years have passed before this need arises and difficulties are encountered in retrieving the evidence and the quality of the witnesses is poor due to the passage of time.

Under current law no finding of fact hearing can be conducted outside the context of Children Act proceedings.

Should the law be changed to allow for an application to be made to the court for a finding of fact soon after the events so as to establish whether any person involved at the time is a risk to other children?

What is the collective view?"

The purpose of the afternoon breakout session was to discuss this and other questions, as posed on the attached list. At the end of the afternoon there was a plenary session to receive feedback and what follows is a summary of the views expressed.

#### On the issue of preservation of evidence:

It emerged that there are many different approaches taken by different police forces and different local authorities' social service departments and some social workers expressed dismay at the difficulties they experienced in obtaining information from the police and from adjacent local authorities.

There was a marked difference in the period of time over which evidence was retained: local authorities kept records for up to 75 years whereas some police forces dispose of files in a few years. This was of particular concern in cases of delayed finding of fact hearings.

There was a view expressed by some social workers that "Working Together" was not really happening and that they felt excluded from investigations and were given

such information as the police saw fit, as and when they saw fit, rather than actually being involved in the investigative process.

There is a need for closer links between the police and social service departments to ensure that evidence is preserved properly. There was a suggestion that an inter-disciplinary meeting at the end of the criminal investigation as well as at the beginning, should be a matter of policy, for the purpose of considering the totality of the evidence and what further steps should be taken.

There was a call for a Working Party to be set up to devise a nationally recognized system for recording and storing intelligence and evidence, and for gaining access to it.

On the issues of re-interviewing and calling of child witnesses:

The view was that this should be done for the purposes of Children Act hearings in some circumstances, which it was not possible to define in the abstract, but there should be a specific purpose, such as to ask questions about details that were missed on the first occasion. Any decision to re-interview should be child-led. Any re-interview should be well-regulated and structured to protect the integrity of such further evidence as may be gathered.

It should always be a carefully considered decision whether or not to call a child witness rather than an assumption against. Some social workers were concerned that not all courts had appropriate facilities to ensure that child witnesses were properly cared for and protected from contact with parties to the proceedings.

On the issue of free-standing fact finding hearings:

There was much support for this in principle (particularly from local authority lawyers), but many concerns as to how it would work in practice:

Who would decide whether to seek findings outside Children Act proceedings?

Should it be just local authorities, or should private individuals and/or other statutory agencies be entitled to apply to the court?

Where would the line be drawn in terms of the seriousness of the alleged assault or behaviour, eg. should local authorities seek findings against a persistent flasher?

The current LSC funding structure would not cover such proceedings.

It would be essential that any findings made should be made available to other local authorities and police forces, as persons against whom findings were made may well move around the country. There may be Human Rights Act implications of sharing such findings.

It was agreed that the plenary discussions should be recorded in summary and sent to the Family Justice Council for information and such consideration as it saw fit.

*Susan Jacklin,*

**Chair of the Bristol branch of the FLBA.**

## BRISTOL FAMILY LAW BAR ASSOCIATION

### **BEST EVIDENCE IN CHILDREN ACT PROCEEDINGS: GATHERING IT; PRESERVING IT; PRESENTING IT.**

#### **QUESTIONS FOR BREAK-OUT GROUPS:**

When a police investigation and/or prosecution has concluded

Should the evidence be retained by the police or by social services?

Whichever body retains it, should it be preserved in a special depository for "Protection of Children" materials?

For how long should it be retained?

Would there be circumstances in which there should be a further recorded interview of a child who has been interviewed on video?

If so, what would be those circumstances?

Should local authorities be prepared in more cases to call as a witness a child whose video is to be submitted in evidence (using video-link equipment)?

#### **Even if there are no pending Children Act proceedings**

Should the local authority review the evidence and consider what further evidence should be gathered for the purposes of Children Act proceedings that may become necessary in the future?

Should the law be changed so that a local authority (and possibly other institutions) could seek findings of fact in the civil court in respect of who caused the death of and/or assaulted a child (physically or sexually)?