

Children and Young People Committee
C05.

Inquiry into CAFCASS Cymru

Evidence from Association of Judges Wales

ASSOCIATION OF JUDGES OF WALES

**SUBMISSION OF EVIDENCE TO THE NATIONAL ASSEMBLY FOR WALES'
CHILDREN & YOUNG PEOPLE COMMITTEE INQUIRY INTO THE WORK OF
THE CHILDREN AND FAMILY COURT ADVISORY AND SUPPORT SERVICE IN
WALES (CAFCASS CYMRU)**

Preamble

This written evidence provided by the Association is the result of a consultation exercise involving the Family Judges of Wales and in particular: the 4 Designated Family Judges in Wales, the Family Circuit Judges authorised to hear public and private law family cases and the District Judges (County Court and Family Proceedings Court).

The Association in submitting this evidence believes firmly that the independence of the judiciary and the separation of powers which underpins this independence must be respected and that the judiciary must not interfere with, nor be seen to interfere with areas of public policy which are the responsibility of the executive (namely the Government of Wales) or the legislature (the National Assembly) as the elected representatives of the people of Wales.

It would be wholly improper for the judiciary to enter into any areas of political controversy (even with a small p) or indeed to voice opinions about any administrative issue or reforms which are the sole responsibility of Government. Accordingly, in preparing this written evidence the Association has followed the Guidance issued to Judges in October 2012 by the Judicial Executive Board.

Without in any way encroaching upon these important principles however, the judiciary in Wales believes it can legitimately assist the Children and Young People Committee in this

enquiry to some degree, since we, as a collective body have valuable experience of the services provided by CAF/CASS Cymru, in our daily work. CAF/CASS Cymru's officers act to a degree as "officers of the Court" in providing reports and recommendations and undertaking other work on behalf of the Judges in Wales.

Hopefully, this experience provides us with a valuable insight we can share with your committee.

Navigating a careful path between these different considerations therefore, the Association's written evidence is confined to the 3rd and 4th areas of your enquiry. As an Association representing the judiciary we do not believe it would be appropriate to provide evidence in relation to the first two areas under consideration.

In relation to Question 3

It is understood that for 2011-12, CAFCASS Cymru funded 7 **Supervised** Child Contact Centres in Wales, although one of them closed at the end of July 2011. They shared a total fund of £152,000. In addition, CAFCASS Cymru funded **Supported** Child Contact Centres in the total sum of £46,612. Those funds were allocated to 11 centres and the sums varied from £1,500 to £12,155. This level of funding had remained unchanged since 2005, meaning that any centre established post-2005 did not receive funding from CAFCASS Cymru.

In July 2009, the Health, Wellbeing and Local Government Committee of the National Assembly for Wales published a report which recommended that CAFCASS Cymru and the Welsh Government should draw up a clear funding strategy for all Child Contact Centres in Wales. It is understood that the new framework is being introduced and NACCC (the National Association of Child Contact Centres) has been appointed the Network Manager for Wales. It is understood that, after collating information from all child contact centres in Wales, NACCC will provide recommendations for CAFCASS Cymru about the level of funding which each centre should receive from April 2013 for a period of three years. However, it is believed that the overall level of funding (£198,612) may remain unchanged and as that funding may be distributed amongst a larger number of centres, it follows, inevitably, that some centres may suffer a reduction in their funding.

By way of illustration of the provision which exists currently, the Pontypridd Centre, which provides supported contact each Saturday morning, has been receiving funding of £5,250 p.a. from CAFCASS Cymru. The centre's expenditure last year was just under £20,000. For the

bulk of its remaining expenditure, the centre is dependent upon charitable gifts and donations. Whilst it employs, on a limited part-time basis, a co-ordinator and two volunteer co-ordinators, it relies upon the support of a team of 14 volunteers and 8 members of its Trustee Board. Currently, the service is provided in a room hired at the local YMCA, the service having been provided, previously, at a Church Hall, two other rooms at the YMCA and a Chapel Vestry.

Concern is expressed as to the recently wound up Swansea Contact Centre. Furthermore, beyond Swansea there is no provision for supported contact unless it is facilitated by the local authority on a voluntary basis. This issue has been regularly discussed in the Mid and West Wales Family Justice Council but without a solution being achieved. There is a considerable need for such a service.

Private law cases give rise to the need for supervised and observed contact as part of an assessment process or indeed in moving a case on where the Court has imposed contact arrangements on an unwilling parent. Limited facilities of this kind are available and this acts as a significant inhibition to helping birth fathers in particular to establish or re-establish contact after a significant gap for which they may not be responsible. It would not be reasonable or practicable to expect a CAFCASS Cymru officer to undertake this role in a particular case but the limited existence of a negotiated facility is a concern. Whilst it is correct that parents should be assisted to resolve their difficulties amicably and through mediation, there will always be a cohort of cases in which the welfare of the child requires the intervention of the Court and control of the contact arrangements. The sort of facility identified above is an essential resource in such cases.

Child Contact Centres make a significant contribution to the introduction or the re-establishment of contact between children and the non-resident parent. In 2011, NACCC

established an Expert Working Group to consider future directions for Child Contact Centres. The Group, which included a judicial member from Wales, submitted a response to the Family Justice Review's Interim Report. We endorse the following recommendations of that response which, in its application to Wales, suggests that, in order to deliver its role in the provision of Child Contact Centres more effectively, CAFCASS Cymru should give consideration to the following issues:

- With the proposed reduction in public funding for private law Children Act proceedings and the anticipated increase in the number of self-represented litigants in those proceedings, the level of expectation and the responsibilities to be placed on supported Child Contact Centres, which are heavily dependent on volunteers, requires clarification
- Procedures need to be put in place to ensure that appropriate referrals are made to Child Contact Centres and that staff and volunteers who work at such centres are protected by clear risk assessment processes.
- Whilst appreciating the difficulties caused by the current economic climate, funding for supported centres is critical to enable them to employ paid co-ordinators and focus on their core tasks whilst remaining local and voluntary.
- A strategy is required to enable supported centres to offer better quality accommodation and facilities and increased capacity through longer and more flexible opening hours and more frequent opening days.

- There should be an effective accreditation and training process for Child Contact Centres.

- In Wales, Child Contact Centres have developed on an ad hoc basis and CAFCASS Cymru needs to review the overall provision, identify the gaps in that provision and ensure appropriate funding provision.

Attached, as a separate Annexe A to this evidence, are some responses to a judicial questionnaire, prepared by the Expert Working Group of NACCC, with regard to Child Contact Centres. The Respondents (although partly drawn from judicial colleagues in England) do include a number of Judges in South Wales and the responses illustrate the importance of Child Contact Centres to the work of the family judiciary. In general the District Bench are better able to comment on the position with regard to Contact Centres because historically they have had close links with local Contact Centres and their involvement with private law family cases is more likely to entail the use of Contact Centres.

Attached as Annexe B to this evidence, is a further document produced on behalf of the District Judges in Wales, although many of the issues raised therein also find expression within the main body of this evidence.

In relation to Question 4 (and considering its impact upon family proceedings in the Courts which affects the Judiciary)

As a general observation it could be said that the formal role of CAFCASS Cymru in family law proceedings remains significantly unchanged following the FJR (Family Justice Review).

Out of the 134 Norgrove recommendations responded to by the UK Government only 3 recommendations 91-93 under the heading 'Representation of Children' related directly to CAFCASS/CAFCASS Cymru. The tandem model of representation for children was retained and CAFCASS Cymru continues to provide Court reports for the use of the Courts in Wales in family proceedings.

The retention of the tandem model is a key and important feature of the recommendations. It follows that statutory obligations under section 35 Children Act 2004 placed on the Assembly remain of pivotal importance to the "high end" private law cases where a Rule 16.4 Guardian is required and to all public law cases. The reforms to the Legal Services' Commission funding code recognise this principle at the level of national government in the retention of public funding for private law cases in which there are allegations of child sexual abuse and serious domestic violence. It is accepted without question that public funding should remain in public law cases where the state is seeking to intervene in the private and family life of children and parents, often with lifelong consequences for both children and parents.

It is a feature of public law cases that both the parents and children are from the most disadvantaged areas of society with a cycle of parents' experiences of their own parenting repeating itself in the lives of the children. It may be seen as an irony that there is concern about the number of children who are the subject of proceedings at the same time as the most

recent advertising campaign for the NSPCC is reminding the public that there are 30,000 children at risk of harm in our society.

In order to have a keener appreciation of the likely effects of the FJR on the work of CAF/CASS Cymru it is necessary to look at current trends and the current situation in the family jurisdiction and consider some future developments.

Current trends

1. The number of public law family applications has increased and it cannot be predicted when this upward movement will show any sustained decrease.
2. The complexity of modern family relationships, the increasing mobility of parents and children within the jurisdiction and internationally between jurisdictions will continue and probably increase.
3. The content of family law, procedures and enforcement has increased in complexity to deal with the features identified in this section.
4. The importance of avoiding delay in family proceedings is and remains a statutory imperative.
5. The welfare of the child will continue to be paramount and the wishes and feelings of a child will continue to be an important ingredient within that consideration of welfare. The need for an independent agency able to champion effectively these interests therefore will remain. CAF/CASS Cymru will need to develop practices to ensure that the voice of the child is heard in Court and elsewhere. This may require

assisted Court visits, explanatory sessions etc. This duty to ensure that the voice of the child is heard is underlined by the provisions of The Rights of Children and Young Persons Measure (Wales) 2011 and “Guidelines for Judges Meeting Children Who Are Subject to Family Proceedings” issued by the President of the Family Division in 2010 – and may have funding/management implications.

6. The assertion of parental rights and familial rights generally has increased in prominence, a trend accelerated by the incorporation of the ECHR into domestic law.
7. Greater cultural and religious diversity and its impact upon family life; different norms of family behaviour all of these features provide new considerations for the Family Courts and for CAFCASS Cymru.
8. Public finances are stretched and the allocation of financial resources within the public sector is under pressure and is unlikely to be altered in the near future.

Having regard to this background CAFCASS Cymru operates within a pressured environment. The strategic plan of CAFCASS Cymru: “Providing a Voice 2012-15” sets out the goals clearly which should be implemented. The Association however is able to identify a number of areas where pressure is evident within the current provision offered by CAFCASS Cymru and where future developments are likely to increase the challenges faced by CAFCASS Cymru.

A In Private Law Work

1. The provision of safeguarding reports is not always provided expeditiously to Courts nor always with accuracy. Judges recognise that there are delays caused by insufficient information being provided on C100 Forms; unfortunately this is a trend which may accelerate when legal representation by way of public funding is withdrawn next year. Without this report, the proper operation of the President's Private Law Programme at FHDRA (First Hearing Dispute Resolution Appointment) will be affected and delay will ensue.
2. The number of unallocated private and to a far lesser extent public law family cases in South Wales remains stubbornly significant.
3. The section 7 report, where ordered, conventionally can take between 12-16 weeks to be completed. That is a long time in a child's life for a contact/residence dispute to fester without resolution. Any new system which could accelerate the appointment of a CAFCASS Officer to undertake the preparation of this work, implemented on an all-Wales basis would be welcomed. Under the FJR, where Court proceedings are issued, the emphasis is placed upon early resolution. This is likely to require CAFCASS Cymru to provide the Court with focused section 7 reports within 8-10 weeks, at most, of being required to do so. At the same time, CAFCASS Cymru is likely to be dealing with a much higher percentage of self-represented litigants.
4. In the FJR, the emphasis in resolving private law disputes concerning children is upon effective intervention through mediation, parenting information programmes and provision of information as to available services, such as Contact Centres. CAFCASS Cymru will need to ensure that these services are available and easily accessible.

5. As stated above not all of the potential contact activity programmes under Part II of the Children Act 1989 are available in Wales and the funding of some activities is in general restricted in comparison with England. In relation to parenting information programmes/contact activity directions it is understood that these have been provided free at point of delivery in England since 1 April 2010. In Wales, the charging structure remains (£320 per couple) and is means tested, unless the parent is in receipt of public funding. CAF/CASS Cymru has indicated that it approves most applications for fee exemption but with the virtual disappearance of public funding for private law Children Act proceedings the very existence of means testing may be an impediment to participation in the programme. The impact of the removal of the fee requirements in England may be gleaned from the fact that whilst only 950 parents attended the programmes in the first year since they were introduced in December 2008, 13,000 parents attended a parenting information programme in the year to April 2011 (after the fees were abolished), and this number increased to 18,279 in 2011-12. It is reported that research conducted in early 2011 with parents referred to such programmes found that, despite initial reservations, most parents reported finding the experience of attending a parenting programme entirely acceptable and generally supportive.
6. Since residence and contact orders will be replaced by a child arrangements order, this may ease PLP (Private Law Programme) hearings where CAF/CASS Cymru can assist with a compromised outcome, however this may to a degree be offset by the increased number of self-representing litigants (see below).
7. The restricted future use of experts will apply to private law proceedings therefore a CAF/CASS Cymru officer may be the only source of independent advice for the Courts.

8. The withdrawal of public funding in private law cases is likely to result in an increase in self-representing litigants. This may lengthen a PLP list/contested private law hearings. High conflict cases may attract the appointment of rule 16 Guardians more readily than hitherto and this will strain CAFCASS Cymru resources. Private law applications are not currently increasing (unlike public law applications) but the respite provided by this reduced number may be eclipsed potentially by the phenomenon of the self-representing litigants with the consequences suggested above even where these litigants are assisted by McKenzie Friends. Time will tell.
9. With the insertion of a new inquisitorial principle for the judiciary – a Courtroom with two or more self-representing parties and a CAFCASS Cymru officer is likely to be changed environment for many.

B Public Law

In public law family cases, the following developments are likely to impact upon CAFCASS Cymru's work.

1. The timescale for completing reports in public law cases will be reduced to accommodate the new 26 week pathway. Reduction in inefficiency, delay and the attendant increasing cost of litigation are emphasised in the FJR.
2. The content of Guardian reports will require analysis and not repetition of historic facts. There will be less dependence upon experts because experts' evidence will only be permitted where this is "*necessary to assist the Court to resolve the proceedings justly*" and the Court will be reliant upon good quality social work advice from the local authority and the Guardian in written/oral testimony.

3. The Court should recognise that one size does not fit all and the role of the Guardian should be adjustable to fit the requirements of the case and the possible welfare outcomes for the child. For example a child removed from parents at birth because of already established concerns about their parenting and who show no particular evidence of efforts to change would require less input from his or her Guardian, other than to report to the court on the adequacy of the welfare planning and the assessment process of the parents if one is being undertaken. The Court does not expect the Guardian to manage the case or carry out social work functions; rather to inform the Court when things are going wrong which have short or medium term implications for the welfare of the child or young person.
4. An older child needs to have an advocate for his or her wishes and feelings and a voice in the proceedings when his or her welfare interests are at risk of being overlooked. The Guardian should be able to advocate fearlessly for the child when there are welfare risks and should be able to make the necessary enquiries. After all, the Court is fully competent to evaluate the evidence but is unable to speak to all the key players and discover what the dynamic of the case really is. The Guardian remains the “eyes and ears of the Court”. An office based Guardian who does not go out and see the key players will not be able to assist the Court in those cases where it is needed.
5. The Courts role in scrutinising the care plan will be focused on the “*permanence provisions*” for child i.e. placement rather than contact provision. This should be reflected in the Guardian’s report which will focus upon this area.

6. Guardians will be provided with evidence based research outcomes for children which will assist them in formulating recommendations and Judges too will need to familiarise themselves with this material.
7. As the reforms to family law are implemented and there is a significant reduction in the length of time that cases take to be resolved, the demands on public law Guardians it is anticipated, should decrease. It is also noteworthy that there has been an increase in less experienced Guardians as a result of recent recruitment. As they grow in experience, the pressures of working to tight Court timetable should become less. Many of the issues in cases that will come into the proposed standard track fall into the category of usual and conventional issues in child care cases and should, it is anticipated require less time to consider and assess.

The overall picture is not however universally gloomy. There have been important advances in many areas and it is recognised by the Judiciary in Wales that overall the service provided by CAFCASS Cymru is qualitatively better than the equivalent provision in England.

Furthermore:

1. There are regular meetings between CAFCASS Cymru's Regional Head of Operations/Area Directors and the DFJs for Wales. Issues of concern, for instance delay in allocation of Guardians or other matters are regularly discussed.
2. There are regular meetings between CAFCASS Cymru and the Family Judiciary and other agencies as part of the Family Justice Network. CAFCASS Cymru is included in the preparation of the Family Justice Network Action Plan. Local Family Justice Boards have CAFCASS Cymru representation.

3. CAFCASS Cymru has assisted local authorities in Wales with
 - (i) a common section 7 report template which should improve the consistency of these reports; and with
 - (ii) the formulation of a Court Pre-Proceedings Protocol operated since September 1st 2012 in Gwent.

4. Consideration is being given to a pilot project (akin to that undertaken in Coventry and Warwickshire) where CAFCASS Cymru is involved pre-proceedings at the letter before action stage of the PLO.

5. The provision of Guardian reports in public law cases is generally timely and of good quality and CAFCASS Cymru's workforce displays a high degree of professionalism and commitment to the interests of the individual child in each case.

6. DFJs in Wales have experience of cases in which Guardians have acted appropriately but assertively to bring to the attention of the Court instances in which welfare issues for the child have become lost in the management of the case by a local authority. At a time when each Guardian has been carrying a very heavy and sometimes excessive work load contact has been maintained with parents, carers and the child to an acceptable degree and limited only by the demands of an existing workload

7. There is also genuine independence of thought and approach which is conditioned by the desire to promote the welfare of the child. In all cases where conflict with the wishes of the young person has developed which justifies separate representation, a

good working relationship with the young person has been maintained notwithstanding the difference of view.

8. The judiciary are satisfied that individual Guardians /Welsh Family Proceedings Officers have provided a genuine and professional analysis of the welfare interests of the child. There have been occasions where the Court has disagreed with the views expressed and recommendations made by a Guardian, in the light of all of the evidence when it has been tested, but that is in the nature of the jurisdiction and the duty of the Court. However the judiciary believes that the advice given by CAFCASS Cymru has not been unreasonable or outside the range of professional judgment.

C The Independent Reviewing Officer and CAFCASS Cymru

There is one area which the Association would wish to draw to the attention of the Committee and that is to paragraph 35 of the “Judicial Proposals for the Modernisation of Family Justice” prepared by Mr Justice Ryder in July 2012 where in relation to recommendation 44 of the Norgrove Report the following appears:

“The role of Independent Reviewing Officers should be examined as part of the pilot study to consider whether their duties and responsibilities to scrutinise the implementation of care plans and refer cases back to Court are adequate, particularly in the context of any proposal to limit the scrutiny of the Court within proceedings.”

Concern has been expressed about the current IRO arrangements. The independence and status of the IRO within a local authority have been questioned by some. In relation to the Care Plan, the Court's role in scrutiny and the time taken for scrutiny will be reduced in future. Is the procedure for monitoring implementation of approved Care Plans adequate? The Committee may wish to consider whether CAFCASS Cymru's role in this respect could be enhanced so that for an initial period after the approval of any Care Plan (say 12 months) CAFCASS Cymru would monitor local authority implementation of it, providing a report to the local authority in cases of non-compliance. This would unavoidably have manpower implications for a hard pressed organisation which the Association does recognise. Of course, it is not for an independent judiciary to seek to influence your recommendations but this issue which is raised by Mr Justice Ryder on behalf of the wider family judiciary of England and Wales is of importance to many vulnerable and needy children who should be protected.

D Concluding Observations

The independence of the Guardian is a guarantee of Article 6 and 8 ECHR compliance in what might otherwise be a conflict of interest for the Welsh Government through its devolved responsibility for social services and child protection and its statutory duty under section 35 Children Act 2004. The role of the Court is the crucial element that provides the ultimate safeguard assisted by the case analysis of the Guardian.

During the pilot stages of the PLO (Public Law Outline), there was discussion about the Guardian providing a plan, which could be confirmed by the Court as appropriate to the needs of the case and to the identified issues. This would have the advantage of transparency

and assist in the allocation of the right resources to each individual case as outlined above. It would also link the Guardian to the independence of the Court.

Concern is expressed that internally imposed limits on the role of the Guardian will in the medium term undermine the effectiveness and independence of the Guardian who will be seen as a paper apologist for the decision making of the local authority. Whilst this may be a comfortable position in terms of the short term allocation of resources, it is unlikely to serve the overall welfare of the children involved in proceedings which is the key role of the agency and a justification for its continued existence. It may also impinge on the statutory responsibility under section 35(1)(a) – (c) of the 2004 Act.

CHILD CONTACT CENTRES

RESPONSES TO JUDICIAL QUESTIONNAIRE

1 The Questionnaire

- 1.1 The questionnaire (at Appendix A) was sent to the Designated Family Judges and to District Judges (through the Association of District Judges) in England and Wales.
- 1.2 Replies were received from judges from the following areas:

England: Berkshire, Birmingham, Bow, Bristol, Cambridge, Cumbria, Dorset, Ipswich, Keighley, Lincolnshire, Liverpool, Luton, Manchester, Milton Keynes, Northampton, Norwich, Southampton, Stoke-on-Trent and Surrey.

Wales: Cardiff, Gwent, Neath Port Talbot, North Wales, Pontypridd and Swansea.

2 Supported Contact Centres

- 2.1 All judges reported that their courts had access to supported contact centres.
- 2.2 10 out of 19 responses from England referred to delays in referrals ranging from 2/3 weeks to 6 months. 2 out of 6 responses from Wales referred to some delays of weeks rather than months.

2.3 As to how the service provided by such centres could be improved:

- (i) almost all respondents referred to the need to expand capacity through longer/more flexible opening hours and more frequent opening days;
- (ii) references are made to the provision of better equipment – toys, chairs, refreshments etc, an outside play area, more modern surroundings and *“a room for older children who don’t want “little kids” there all the time”*;
- (iii) references are made to the need for more centres to be available *“especially as the courts are facing a huge rise in litigants in person in private law cases and will need 'local' contact centres to assist in managing contact disputes”*;
- (iv) the need for more centres is highlighted, also, in the case of rural areas where, because of poor transport infra-structure, local access to contact centres is very important;
- (v) it is suggested centres could improve the means of communicating with them – *“A quicker and more reliable method of communication would be beneficial. An interactive web site could be very useful to determine availability as well as providing a means of contact so that information such as contained in their application forms could be done on line and relayed straight to the CC.”*
- (vi) one respondent refers to the need to emulate the fee paying centres (those run for profit) which have *“buildings adapted for the purpose rather than a church hall and have staff who are used to dealing with the more difficult and challenging child care issues.”*
- (vii) many of the respondents, including four of the six from Wales, refer to the need for the centres to be properly financed:

“Why can’t Legal Aid and CAFCASS provide the resources? This would cover the venues and staff. Without our local contact centre, the system of reintroducing contact would collapse thereby increasing the burden on CAFCASS and creating even more significant delay.”

“Supported Child Contact Centres survive on a shoestring and the lack of certain funds is very worrying. The process of applying to various charitable funds for grants is laborious and many of them will not provide funds for running expenses only for particular projects.”

3 Supervised Contact Centres

- 3.1 20 out of 25 judges (15 out of 19 in England and 5 out of 6 in Wales) reported that their courts had access to supervised contact centres.
- 3.2 Delay is not said to be a major factor in making referrals. The main concern, cited by 8 of the judges, is funding. Unless the parties are able to fund the sessions privately, courts are dependent on funding being provided by Cafcass/CAFCASS Cymru.
- 3.3 As to how the service provided by such centres could be improved:
- (i) many respondents refer to the need to expand the facility and to provide a service at weekends;
 - (ii) the provision of the service in those areas where, currently, it does not exist;
 - (iii) the provision of properly financed training – *“I suspect some of the supported centres could offer supervised contact provided they had the appropriate staff to assist”*;
 - (iv) funding is recognised as a key issue – *“If funded the service could be used a great deal more”*;

On a more fundamental note, one respondent commented – *“Simply by existing! Our now unavailable centre used to give feedback to each parent separately on how contact had gone and in effect, in doing this, provided the opportunity to support and encourage the parents in very difficult circumstances”*.

4 Assistance provided by child contact centres

- 4.1 All judges say contact centres have been of assistance in resolving applications for contact before the court, many saying they are *“invaluable”*.
- 4.2 Other comments include:

“Absolutely vital. I do not believe we could do the job as well without them. The fragmenting of the family unit makes the wider family less accessible as a neutral venue for contact. In many situations the family have become involved and can be the source of further friction.”

“Incredibly helpful. Without them there would be very serious difficulties in starting/restarting contact in many cases.”

5 How do they assist?

- (i) *“They allow the opportunity to reintroduce/commence contact in a non-confrontational setting where the security of the children can be maintained. The process will then help rebuild/build confidence between the parents, allowing the children to develop their relationship with the absent parent. It gives the court some firm foundations for the relationship between child and absent parent to enable them to progress contact into the community and in most cases to staying contact.”*
- (ii) *“Child Contact Centres are an extremely valuable, and I would say, essential resource in disputed contact cases, as they provide a neutral setting where non-residential parent can be supported to build and/or maintain relationships with their children, whilst providing re-assurance for the residential parent. Without contact centres, it would be very difficult in a number of cases to get contact off the starting blocks.”*
- (iii) *“They provide a productive and constructive way forward particularly in cases of “intractable conflict or hostility”.*
- (iv) *“Stepping stone to visiting contact giving reassurance to all concerned; a safe environment for re-introduction or observation of contact; a venue when no other exists; and, a safe location for handovers.”*
- (v) *“By enabling a parent to demonstrate commitment to contact by regular attendance.”*
- (vi) *“They can check that the relevant parent is not under the influence of any substance at the beginning of contact and provide a record of who did or did not turn up.”*
- (vii) *“Where contact is established or re-established, centres often also provide a base for commencement of unsupported contact by operating as a place of collection and return.”*
- (viii) *“Providing a safe place to maintain relationships whilst investigations take place.”*

- (ix) *“In the case of supervised contact, by providing observations on contact which has taken place.”*
- (x) *“Supervised centres are able to tackle the more entrenched problems and hope to refer on to a supported centre.”*
- (xi) *“In the cases that are referred, they are often the last resort as there is no-one in the family who can assist to support or supervise.”*

6 The availability of alternative services

6.1 The judges were unable to identify the availability of alternative services, if child contact centres did not exist in their areas, save for:

- (i) *“Local Authority Family Centres which are very busy and over subscribed.”*
- (ii) *“There are a few play centres where parents can accompany their children in activities, but these can usually only be engaged once contact has been well established.”*
- (iii) *“The Local Authority if asked to assist under a Family Assistance Order.”*
- (iv) *“Possibly the Cafcass family support worker supervising or facilitating one or two contact sessions in appropriate cases.”*

7 The role of child contact centres in a Family Justice Service

7.1 All judges say child contact centres should be part of a Family Justice Service and most say they should be a *“vital”/“prominent”/“official”/“important”/“more central”/“better identified”* part of the Service and properly funded.

- 7.2 (i) *“They do and should provide a vital role in facilitating contact in a safe environment for the child. Without their services the process of trying to re-start contact would collapse. There would be no adequate substitute for the work that they do in helping to re-build relationships between children and their absent parents. The alternatives are limited and unsatisfactory. The role is seen by us as a facilitator of contact. A friend to all but especially the child.”*

- (ii) *“They could be an important part of it, particularly if provision was made more consistent across the country and finance was provided.”*
- (iii) *“I would like both centres to be a more central part of the Family Justice system which is sensibly funded and so that we all know it will exist for the years to come. It is not fair on the staff to have such an uncertain future when they do so much good. One plays a large part in our local PIP scheme with excellent results.”*
- (iv) *“It is important that supported centres remain neutral and child focused, which is helped by the fact that they do not play a part in the court proceedings eg they do not provide the court with an assessment of how contact has been going.”*
- (v) *“By having a supply of trained assistants, full time, part time and volunteers.”*

7.3 In the context of supervised contact centres:

- (i) *“Supervised contact centres should continue in the role of facilitating contact in those difficult cases as well as providing assistance to the court in reporting events witnessed by them which are relevant to the issues the court has to determine. The best of the centres have experienced social workers who can provide cogent reports upon what they have observed. This secondary aspect of their work can in difficult cases usurp the traditional role of the section 7 reporter so it may well be that the relationship of Cafcass/Social Services departments should take on board their expertise and acknowledge their reporting credentials.”*
- (ii) *“We do need more. We can't cater for the father (or mother or other) who needs to have a meaningful relationship with a particular child (that's a child which needs to have a meaningful relationship with that person also) but who for one reason or another can't be left unsupervised. Such situations are relatively rare but they do sometimes occur.”*
- (iii) *“As important places where contact can commence and continue for a limited period in a controlled and supervised setting in cases which are then unsuitable for unsupervised contact such as those involving risks of harm arising from more serious violence and/or abuse.”*
- (iv) *“They could act as a first port of call to re-introduce parents to children by discussing and helping facilitate in the first instance indirect contact with a view*

to it progressing. They can report back to the parent on the child's enjoyment of contact and to the contact parent give advice on meeting the needs of the child in contact. Many parents who have had ruptured relationships don't know how to break the ice or deal with age appropriate play or conversation. They have a role in educating the parents in putting the child's needs first having identified what the parent need support with."

- (v) *"It would be useful to have greater provision of supervised contact centres for cases where there are genuine significant welfare concerns, eg mental health issues impacting on a parent's ability to prioritise the child's needs, but a good bond between the child and parent which indicates that there should be contact but that it needs to be properly supervised to ensure that it is a safe and positive experience for the child."*
- (vi) *"Should be free for those at the lower income scale."*
- (vii) *"By providing more reports – in place of/in addition to Cafcass (in relation to both supported and supervised centres)"*

8 The involvement of judges in the management of contact centres

- 8.1 Judges from 10 areas, including the 5 of the 6 areas in Wales, said there were judges in their areas who were members of the management committee of a contact centre.

ANNEXE B

Submissions by the members of The Association of Her Majesty's District Judges in Wales concerning

The Inquiry of the Children & Young People Committee of the Welsh Assembly Government for Wales into the work of the Children and Family Court Advisory and Support Service in Wales (Cafcass Cymru)

We are grateful for the opportunity to respond to the invitation of the Inquiry to comment upon the work of Cafcass Cymru (“the Service”) and its importance to the administration of justice in Wales.

Being members of the independent judiciary of England and Wales we intend to restrict our response to providing the Committee with an overview of the relationship between the judiciary and Cafcass Cymru at the present time. It is inappropriate that we should make any comments upon political issues arising out of the Inquiry and our submissions are apolitical and designed only to assist the Inquiry in its work for the benefit of the children of Wales who become involved in judicial proceedings.

Our submissions represent a compilation of the views of our members throughout Wales and reflect upon the dealings of the district bench with all the Area Offices of Cafcass Cymru throughout the country.

Our members have the greatest respect for the Welsh Family Proceedings Officers (WFPO's) undertaking the front line work with parents and children throughout Wales. With very few

exceptions we consider them to be hard working and dedicated professionals whose work does make a huge contribution to the welfare of children in Wales. By and large, the district judges in Wales enjoy an excellent working relationship with the WFPO's and we are generally satisfied with the standard of their investigative work and compilation and content of their written reports in children cases. They perform a valued service in their work in alternative dispute resolution both within and outside the courts. We find that the front line officers of the service are invariably willing to undertake work at weekends if the nature of any particular case requires underlining their dedication to the welfare of children.

We are not able to be as complimentary in relation to the management and management systems of the service which is an area in which, in our view, significant improvements are still to be made.

We perceive that there are weaknesses in lines of communication and management systems that require to be addressed and which create delay in the administration of family justice in Wales to the ultimate detriment of all family court users.

The judiciary are anxious to work with Cafcass Cymru to achieve a better understanding of the problems experienced by the Service and to endeavour to assist in overcoming those problems. We recognise that both government and court resources are scarce but consider that it is fundamental to the rule of law that timetables set for the progression and determination of cases involving children are observed by everyone including Cafcass Cymru. It is essential that adequate resources are made available to secure that objective particularly if the reforms being introduced for the modernisation of the family justice system are to be successfully introduced. Those reforms require the timely dispatch of court business and that, in turn, requires the timely delivery of reports to avoid the adjournment of court cases and to maintain the support and respect of court users and to do justice to the children of Wales.

We consider that it would be advantageous for Area Managers of Cafcass Cymru to held regular, perhaps quarterly meetings with a judge and legal advisor sitting/practicing in each of the county and family proceedings courts in Wales. Such meetings would compliment the work of the Family Justice Network in Wales which operates at government level. It would provide regular opportunity to discuss any concerns arising. Such meetings do take place in some courts and are seen to be beneficial and provide a valuable conduit between the courts and Cafcass Cymru management. The relationship between the courts and the management of Cafcass Cymru could be much improved and we are convinced that such an improvement would improve the outcome of cases for children.

Any delay which is not purposeful in children cases is detrimental to the child. Many cases require swift action in order to nip worsening situations in the bud. Such cases call for a flexible approach; we consider that a greater degree of flexibility within Cafcass Cymru is required to meet the demands of those cases. The ability to react and act quickly when required not only serves the welfare of children but also, in many cases, saves considerable added expense being incurred if such cases are allowed to fester and become entrenched. There is a need for greater flexibility on the part of the Service in assisting the court to further the objective of the Private Law Programme (PLP).

On average, it is currently taking, 16 weeks to obtain a full report pursuant to section 7 of the Children Act 1989 from a WFPO. That period is 4 weeks in excess of the period agreed between the President of the Family Division and Cafcass Cymru and, on average, 6 weeks longer than it takes to obtain section 7 reports from a local authority in Wales where the child is known to that authority. If local authority social workers prepare such reports in 8 weeks then we consider that should also be the aspiration of Cafcass Cymru. The courts are being required to endeavour to ensure that cases are concluded within 26 weeks. It is difficult to achieve that target when 16 of the 26 weeks are taken awaiting a report. This is particularly so when the necessity for a report is only established at the First Hearing which takes place 4 to 6 weeks after issue of proceedings. In some areas even single issue reports are taking the same time to prepare. It is essential that adequate funding is provided to enable the Service to deliver the required section 7 reports in the agreed time. It is our experience that in many cases Cafcass Cymru request additional time for deliver of their report sometimes requiring fixed court appointments to be vacated with prejudicial consequences for many children in delaying the time when the court is able to determine the matters in issue.

One area of significant concern at the present time relates to the delivery of the required “safeguarding” report commissioned from Cafcass Cymru in the vast majority of cases as soon as proceedings are commenced. Such reports should be delivered to court within 21 days and not less than 2 days prior to the first hearing of the case. The delivery of such reports is critical to the first appointment which is required to be listed between 4 and 6 weeks after issue of the proceedings. Our experience is that many such reports are not delivered as required and that many reports that are delivered are incomplete. To compile such reports the co-operation of police and social services departments is required but the required information from those bodies is often absent. In many instances the safeguarding report is compiled after the reporting officer has spoken to only one of the parents concerned.

The receipt of a complete safeguarding report is a pre-requisite to the court being able to make an order on the First Appointment (the FHDRA) when the court will encourage the parents of the relevant child(ren) to engage with a WFPO in alternative dispute resolution at court. Without the report the work of the court is restricted. It is not uncommon for the

WFPO to decline to proceed with the FHDRA under the direction of management. On those occasions cases often have to be adjourned. Such adjournments are not only wasteful of court resources but also detrimental to children and offend against the “no delay” principle enshrined in section 1 of the Children Act 1989. There is an urgent need for the centralised system providing the safeguarding reports to be made fit for purpose and to meet the expectations of the PLP. This is one of the greatest concerns of the district bench at the present time. There is an urgent need to improve the defined lines of communication in commissioning, acknowledging and delivering the reports. The problems in this respect, as experienced in the county courts, are replicated in the family proceedings courts where an ever increasing number of FHDRA hearings are heard nowadays. When the report is delayed it would be of assistance if Cafcass Cymru could facilitate out-of-court conciliation so that any time lost to the court timetable could be made good to avoid unnecessary delay. Some flexibility in enabling cases that need to be adjourned for lack of a safeguarding report to be re-listed without having to await the next dedicated FHDRA list would also be welcomed.

It is our experience that some FHDRA appointments have to be cancelled because of a shortage of WFPO’s to cover them – sometimes because the officer is switched from one court to another at very short notice. That practice derails the timetable for the child, is wasteful of court resources and needs to be addressed.

We consider that it would be most helpful to parents and the judiciary to be kept up to date on the subject of the ability of the Service to provide “contact activity” provision and services. Improved literature for circulation to judiciary and for display in courts, Contact Centres etc, in that regard would be welcomed.

We acknowledge that great efforts have been made to improve upon the time taken for the management of the Service to allocate cases on receipt to named WFPO’s. Further improvement is required if the overall time required to complete cases is to be reduced. We perceive this to be a management/resource problem that needs to be addressed.

The current moves toward the modernisation of the family justice system requires all those working within the system to work together to reduce delay; we are keen to work with all disciplines to achieve that objective no more so than with Cafcass Cymru which plays a critical part in assisting the judiciary in dispensing family justice.

