



Response to Family Justice Review Interim report
by
Family Rights Group

Endorsed by:

Grandparents Association
Grandparents Plus
Mentor UK

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About Family Rights Group

Family Rights Group advises and supports parents and wider family members in England and Wales who are involved with, or require, local authority children's services, about the needs, care and protection of their children. The Charity was founded in 1974.

We promote policies and practice that assist children to be raised safely and securely within their families. We campaign to improve access to effective services and to increase the voice children and families have over decisions affecting their lives. Our free telephone and email advice service advises 6,500 parents and relatives per year about their legal rights and the options open to them.

We also:

- Publish a wide range of advice sheets on all aspects of child care law and practice which can be downloaded from our website at www.frg.org.uk/advice_sheets.html;
- Run a web-based electronic discussion board and set up support groups for family and friends carers, including grandparents, who are raising children who are unable to live with their parents;
- Convene the Kinship Care Alliance and national Family Group Conference Network;
- Run training courses on a regular basis for child care professionals including Independent Reviewing Officers;
- Run action research programmes, for example on how social care services work with domestically abusive fathers and lobby for improvements in childcare law and practice.
- Run a professional advocacy service for families in 3 London boroughs whose children are subject to child protection enquiries and have published national advocacy standards and a code of practice.¹

This submission is informed by our extensive experience of advising parents, carers and wider family members who are involved with children's services about child protection concerns, care proceedings and related processes. Other organisations who collaborate with Family Rights Group in the Kinship Care Alliance have also contributed to, and in some cases endorsed, this response.

We have already submitted oral and written evidence to the Family Justice Review Team.

¹ Family Rights Group has produced a policy, action research, campaign documents and guidance in relation to parental advocacy in child protection, family and friends care, family group conferences and working with fathers, which provide further substance to the statements and recommendations in this submission. Please contact cashley@frg.org.uk if you wish to receive a copy of any of these documents.

1. Introduction

We applaud the thorough and pertinent analysis by the review team of the Family Justice System and its problems and welcome many of the proposals in their Interim Report, in particular:

- i) the extensive range of interventions to support parents and relatives with a view to averting avoidable conflicted private law applications which rarely benefit, and frequently damage children, for example pre-proceedings PIPs, mediation and the on-line information hub and helpline to support separating parents.
- ii) the commitment to keeping the tandem model of representation in public law proceedings;
- iii) the reference to the pilot project on the involvement of the guardian, the potential role of mediation and FGCs in pre-proceedings work in public law cases
- iv) the reference to possibly rolling out the Family Drug and Alcohol Court to be used more widely, subject to the evaluation being finalised.
- v) Better identification of safeguarding issues in private law, with improved co-ordination between private and public law proceedings. However, we note that the ADCS have indicated that, although this will improve children's well-being and should lead to savings to the public purse in the long term, it would require up front investment in social work and support services.

However we are concerned that two issues have not been adequately or appropriately addressed in the report:

- i) Pre-proceedings engagement of families in public law proceedings; and
- ii) Court scrutiny of care plans

1. Pre-proceedings engagement of families in public law proceedings

It is well established that the engagement of families is key to keeping children safe when they are subject to child protection plans². This makes sense because 92% of children subject to a child protection plan live at home³, hence it is families who are responsible for the day to day care of children at risk. Whilst the Peter Connelly case demonstrates that apparent maternal co-operation isn't sufficient, on its own, for children's social care services to be confident that a child is protected, the absence of

² DoH (1995) *Child Protection: Messages from Research*

³ DCSF: Referrals, assessment and children and young people who are the subject of a child protection plan, England - Year ending 31 March 2009

partnership working between the family and the social care agency can be an important indicator of serious concern. A lack of parental cooperation is a key factor as to why cases end up in proceedings. Yet, our current child protection process is poor at engaging with families.

1.1 The experiences of families prior to care proceedings

The interim report provides a thorough and sympathetic analysis of the multiple problems experienced by many parents whose children become subject to proceedings but it does not address the specific experiences of parents during the pre-proceedings stage and how they may be better supported to be more effectively engaged in keeping their child safe, so as to avert unnecessary public law proceedings. In other words the report fails to do in public law, what it does so ably in private law proceedings i.e. make recommendations as to how to support families address concerns and avert cases unnecessarily coming to court.

Drawing upon our experience of advising thousands of parents and wider family members who are involved with Children's Services about the care and protection of their children, the typical experience of parents and wider family members in the pre-proceedings stage is that they find it difficult to work with the local authority's plans for their child because:

- They are often unclear about the totality of the concerns and the reasons for them. They may be given information in a series of different conversations and/or local authority social workers are often unclear themselves about the nature of the underlying problems that need to be addressed and at times may give contradictory views. This has been a particular difficulty in the climate of targets and time pressures, described so well in the Munro interim report 'A Child's Journey'⁴;
- They are frightened, angry and confused which prevents them from hearing what is being said by the local authority, and they often don't know where to turn for advice. For some kinship carers they are also dealing with bereavement and the bereavement of the children too.
- They often don't understand the processes and are overwhelmed by continuous assessments and meetings in which they are scrutinised by a large numbers of professionals.
- Their contact with professionals tends to be more about assessing their ability to meet their child's needs than providing them with tangible support that could make a real difference to their ability to parent effectively.
- Their fear that the child may be removed by the local authority makes it hard for them to trust and work openly with social workers and to reach agreement about how their child should be kept safe.
- The system doesn't support families to take responsibility; instead parents often feel decisions and actions are done 'to' rather than 'with' them, thus encouraging a sense of dependency and resentment.
- Social workers' attention is rarely spent engaging with non-resident fathers to assess them both as a risk and/or resource. Instead our child protection system is predominantly focused on the ability of the mother to protect the child. For example, a file audit of children in need and child protection cases involving domestic

⁴ <http://www.education.gov.uk/munroreview/>

violence found that there was a lack of assessment and information about the parenting capacity of 61% of the fathers, in families where there was domestic abuse, although 90% of these fathers had some contact with their children (Ashley, 2011)⁵

- Social workers focus too often on a narrow view of family, thus, the potential benefits to the child in terms of care and support from the extended family is overlooked. This is done without effective challenge within the system (until a case reaches proceedings). There is clear evidence of the protective impact of wider family, yet current practice frequently fails to recognise this.

Furthermore, since the death of Peter Connelly there has been a clear shift among local authority social workers, managers and legal teams, to being risk averse rather than being risk managers. The financial climate is exacerbating the situation because many non-statutory services are being closed, making it much harder for families to access the specialist, non-stigmatised support they need when problems first emerge. Moreover, whilst there is no published research into how this recession affects incidents of child abuse, a number of studies of prevalence and incidence of abuse have highlighted the link between poverty and forms of child maltreatment, especially neglect, emotional and physical abuse. Explanations given in these studies centre on the stress factors associated with poverty and social deprivation, including unemployment and debt, which are compounded if drug misuse and mental health issues come into play (Dawson, 2008)⁶. The consequence is that children's services teams are overwhelmed by referrals and, unsurprisingly, despite some local variation care proceeding applications are at record levels.

1.2 How can families be effectively engaged in the pre-proceedings stage?

Most care applications concern children who have been known to Children's Services for a long time. Thus there is a significant period of time when a more effective partnership could be established. Given the importance of partnership working to keep children safe and the fears and distrust of many parents/carers in the pre-proceedings stage, the key question is what works in terms of engaging families more effectively and earlier?

Drawing on our practice experience, we set out below:

- i) our analysis of the interventions which have a track record in effectively engaging families in child protection work and
- ii) our proposals which aim to improve outcomes for children and also have the added benefit of reducing avoidable care proceedings and saving social work and court costs in the process.

The proposals are cost effective – generating savings in the court system, the legal aid budget and local authority budgets. For example, every unnecessary care case avoided saves more than £25,000⁷ associated with the court process alone. Even a reduction of 5% in the care population could reduce expenditure on the care system in

⁵ Ashley (ed), (2011) *Working with Risky Fathers*, Family Rights Group

⁶ Dyson, 2008 Child Protection Research Briefing Poverty and child maltreatment (NSPCC)

⁷ DfES/DCA/Welsh Assembly (2006) *Review of the Child Care Proceedings System in England and Wales* p13

England and Wales by over £100 million per annum, which could be more effectively redirected to promoting children's welfare.

1.2.1 Independent advice and advocacy for parents/carers whose children are subject to s.47 enquiries

It is critical that parents and family members have the option to discuss with an independent adviser what the local authority is concerned about regarding their parenting, how the child protection system works, the realistic options open and how to challenge constructively where appropriate as soon as it becomes apparent that their parenting is under scrutiny and could potentially lead to their child being removed. Without such independent advice, their response to attempts to engage them is frequently driven by fear and anger which become counter productive in terms of partnership working.

A recent independent evaluation of Family Rights Group's Advice Service⁸ found that:

- 88% of family members who had called the advice line felt it had helped them to cope with their situation;
- 70% reported that it had led to improved service provision by the local authority;
- 90% felt more confident in their dealings with social workers/professionals;
- 60% reported that the advice they received had helped the family to stay together. 88% reported that as a result of their call, they had acquired more understanding of their situation. This was linked to a reduction in abnormal psychological functioning, that research suggests is linked to improved parental functioning.

Similarly, independent parental advocacy in the child protection process (whereby the parent is accompanied to the child protection conference by an advocate who has specialist knowledge of safeguarding work) has been found to have a very positive impact, enabling the parent to hear the concerns, to engage in the child protection conference, and to focus upon the child's needs rather than be caught up in hostilities with the local authority (Featherstone and Fraser, 2011). The evaluation found that:

- 73% of clients reported that advocacy had made it easier for them to communicate and work with the local authority;
- In 71% of cases, the conference chairperson felt that advocacy support had increased the level of parental engagement with the local authority, and in 35% of cases, a different outcome for the child was linked to increased parental engagement due to parents' co-operating with the drafting of the plan and their subsequent adherence to it.

“Without the advocate I do not feel we would have been able to draw up a child protection plan that involved the mother and had her agreement.” (Conference chair)

⁸ Ritchie C (forthcoming) *Evaluation of Family Rights Group's Advice Service*

Research has found that the key factor is that the advocate has specialised knowledge of child care law and practice, is non-confrontational, works to a reporting threshold and is independent of the local authority (Lindley, 1999). It is particularly important that vulnerable adults, for example parents with severe mental health or learning difficulties, have access to an advocate. However, there is no national provision of specialist advocacy for parents in local authority safeguarding processes.

Recommendations:

- a) That all families subject to child protection enquiries have access to independent specialist **advice**. This could either be from a specialist telephone advice line or from a specialist child care solicitor. The Department for Education's two year funding of the Family Rights Group advice service is welcome, but this relatively short term funding is for one off 'unique' calls by parents/carers, thus it does not address the fact that for many parents/carers whose children are subject to child protection enquiries, their ability to address a fast evolving, often crisis led situation, may involve the need to ring the service on a number of occasions, with their trust in the service increasing their ability to be receptive to the advice given. A longer term option would be for the Ministry of Justice and Legal Services Commission to co-fund with the Department for Education such a service for parents and carers whose children are subject to s.47 enquiries
- b) That all parents/carers whose children are subject to child protection enquiries, have a right to access an independent **advocate**, with expertise in supporting adults with their particular vulnerability and in child care law and practice.
- c) That Government places a duty on (and provides relevant funding to) local authorities to commission such specialist independent family advocacy services.

1.2.2 Child Protection conferences– signs of safety

The Munro review highlighted examples of inclusive approaches utilised by some authorities, including 'strengthening families' and 'signs of safety' approaches that involve professionals actively working alongside children and families in finding solutions that address risk.

Recommendation: That further good practice models which strengthen families' effective engagement with statutory planning meetings, such as the Signs of Safety approach, are more widely promoted.⁹

1.2.3 Letter before proceedings:

As described in government guidance¹⁰, a letter should be sent by local authorities to parents when care proceedings are being considered, to inform them about the concerns and what needs to be done to address them, so as to avert care

⁹ Turnell, A & Edwards S (1999) *Signs of Safety: A Solution and Safety orientated Approach to Child Protection Casework*, see <http://www.signsofsafety.net/>

¹⁰ *Vol 1 Guidance: Children Act 1989 Regulations and Guidance, Volume 1 Court Orders* <http://www.justice.gov.uk/guidance/careproceedings.htm>

proceedings. This letter typically invites them to a meeting to discuss the concerns and also entitles parent(s) and others with parental responsibility, to obtain free, independent advice (Level 2 public funding) from a solicitor and assistance with negotiations.

We understand the review team considers that research is needed to examine its effectiveness (para 88). However, in the absence of such research, it is our experience that parents generally find this letter very helpful. It is often the first time they can see clearly the extent of the concerns, how they must be addressed and the seriousness of the situation. However, in reality its use is patchy and it is often sent so late in the day that there is no time for parents/wider family members to make the changes necessary to overcome the concerns before care proceedings commence.

Recommendations:

- a) That the guidance be revised so that local authorities are encouraged to send the letter 3 months before proceedings are likely to be initiated, unless there is an emergency, whichever is earlier. This would maximise the opportunity for parents and wider family to have a last chance to address concerns and where necessary, to identify options for suitable alternative care within the family, prior to court proceedings.
- b) That LSC **level 2 advice** (triggered by the letter before proceedings) should not just be available to parents and others with parental responsibility, but also to family members with significant involvement with the child, who are considering taking on the care of the child.

1.2.4 Family-centred decision making

Giving families the lead in making decisions about their children, doesn't abdicate the state's role in protecting children. Rather, it is about supporting families, including the child's wider network, to take responsibility for, and ownership of plans to safeguard the child.

In the Netherlands, this has just been enshrined into legislation, by giving families 6 weeks to develop or amend an action plan for the child before proceedings can be commenced to remove a child other than in an emergency which is addressed separately. Although the legislation (see attached) doesn't specify how the family should construct such a plan, one clear route would be through a family group conference.¹¹

1.2.5 Family Group Conferences (FGCs)

We welcome the fact that FGCs are mentioned as a potentially useful form of alternative dispute resolution in the interim report. Since their inception, FGCs have been subject to considerable research and the evidence base for their impact is clear (clearer, in fact, than for traditional child protection conferences). There is now substantial evaluation research as to their efficacy:

¹¹ <http://www.familygroupconference2011.eu/en/news/the-right-of-citizens-to-make-a-plan-first-is-voted-into-the-child-protection-act-cpa/>

- FGCs have been successfully held in situations where there has been substantial abuse including domestic violence (AHA 2009¹², Pennell and Burford 2000¹³).
- These positive outcomes are not just in the immediate period after the FGC; a longitudinal study by Kiely and Bussey (2001)¹⁴ demonstrated a reduction in reports to child welfare statutory services post FGC conference.
- This finding was echoed by Titcomb and Lecroy (2003)¹⁵ who found that 87% of children did not have a substantial report of abuse or neglect up to three years following the meeting, and by Pennell et al who found that families suffered less maltreatment following an FGC (Pennell and Burford 2000).
- There is also a corresponding significant reduction in the number of proceedings after FGCs (Morris 2007¹⁶, Sawyer and Lohrbach 2008, Walker 2005).
- FGCs produced plans that were assessed as having prevented children going into public care in 32% of cases and prevented court proceedings in 47%; and made no difference in 21% of cases (Smith and Hennessey, 1998).
- Edwards found higher rates of reunification for children whose families participated in FGC compared with those who didn't (Edwards et al 2007)¹⁷.
- Plans are accepted by the referring agency (usually children's social care) in 95-97% of cases even in difficult cases such as sexual abuse (Walker 2005)¹⁸.
- A consistent view is that families appreciate this way of working with the FGC being well received by families, young people and professionals (Holland et al

¹² American Humane Association (2009) *Protecting children; family group decision making* Denver, AHA.

¹³ Pennell, J and Burford, G (2000) *Family group decision making: Protecting children and women*. Child Welfare 79(2), 131-158.

¹⁴ Kiely, P and Bussey, K (2001) *Family group conferencing: A longitudinal evaluation*. Sydney, Australia: Macquarie University.

¹⁵ Titcombe, A and LeCroy, C *Family group decision making: Third annual evaluation report Tucson, USA*

¹⁶ Morris, K (2007) *Camden FGC service: An evaluation of service use and outcomes*.

¹⁷ Edwards, M, Tinworth, K, Burford, G and Pennell, J (2007) *Family Team Meeting (FTM) process, outcome and impact evaluation phase ii report*. Englewood, CO: American Humane Association.

¹⁸ Walker, L (2005). *A cohort study of 'ohana conferencing in child abuse and neglect cases*. Protecting children, 19 (4), 36-46.

2007¹⁹, Sandau-Beckler et al 2005²⁰). Family members express dissatisfaction in 17% of responses compared with a dissatisfaction rate of 53% for traditional meetings (Walker 2005).

- Moreover, FGCs are proven to result in extended family members stepping in to support struggling parents and when necessary to take on the care of the child if s/he cannot remain with their parent (Laws and Kirby 2007²¹). There is an increase in the rate of foster care placements with relative carers as a result (Edwards 2007). These family solutions to placement needs of children are found to be both enduring and responsive to children with complex histories. A longitudinal study suggests that FGCs generate additional kinship foster care and respite for children where there was abuse or neglect (Kiely and Bussey 2001)²²
- Engage fathers and paternal relatives: there is also a reported higher rate of attendance by fathers and father figures at FGCs than at statutory meetings, such as child protection conferences (Ryan, 2000²³; Marsh and Crow, 1997²⁴; Holland et al, 2003²⁵).
- Give children a voice: children are reported to view participation in their FGC very positively. Most felt they had a say in their meeting and expressed a liking for this way of working as preferable to other types of meetings (Holland et al 2004)²⁶
- Improve outcomes for children at risk and be cost effective in preventing children being unnecessarily subject to care proceedings or removed into care. For example, a survey by Family Rights Group of nine projects reported that they have prevented 229 children becoming looked after in the last year, including avoidance of proceedings for 116 children, and that FGCs had led to 58 children returning to their family from local authority care. The combined savings from this amounted to an estimated £11,005,167. The combined FGC project budgets amounted to £1,467,700 in 2009/10 and whilst costs to public agencies of supporting the family plan must also be taken into account, nevertheless the savings are clear – for further information see Appendix 1. (www.frg.org.uk forthcoming)

¹⁹ Holland, S, Aziz, Q and Robinson, A (2007) The development of an all-Wales evaluation tool for family group conferences: Final research report. Cardiff, Wales: Cardiff University.

²⁰ Sandau-Beckler, P, Reya, S and Terrazas, A (2005) *Family group decision making in El Paso County, Texas* Protecting Children-Family Group Decision Making. An evidence based decision making process in child welfare, 15, 1 and 2, Englewood, Colorado, AHA.

²¹ Laws, S and Kirby, P (2007) *Under the table or at the table? Advocacy for children in family group conferences*. Brighton, Brighton and Hove daybreak project.

²² Op cit

²³ Op cit

²⁴ op cit

²⁵ op cit

²⁶ op cit

In recent years there has been a significant expansion in the number of child welfare FGC services. Moreover there are some optimistic developments:

- To address the lack of regulation in relation to FGC standards, Family Rights Group has developed a post graduate certification for FGC co-ordinators in conjunction with the University of Chester, and an Open College Network award has also been developed by some FGC providers. Moreover, the DfE has now funded Family Rights Group to lead the development of a sustainable quality accreditation scheme for FGC projects.
- Recent Statutory Family and Friends Care Guidance issued by the DfE strongly recommends that local authorities should have an FGC service (para 4.34-4.37).

Nevertheless:

- A recent informal mapping exercise in England and Wales by Family Rights Group (with the FGC network) shows that although in 68% of local authorities there is an existing FGC service and in a further 7% there are plans to set one up, there is no indication of any plans to set up such a service in the remaining 25% of local authorities (see Appendix 2). This means that in a quarter of local authorities families will not be offered a FGC service. Moreover, the picture is changing. Whilst some local authorities are establishing or expanding their FGC services (not least because they can see the cost benefits of doing so), others are planning to close them in order to make immediate savings to local authority budgets because they are non statutory²⁷.
- It is only a small minority of authorities which have a policy to offer an FGC to all families, prior to proceedings being taken. Therefore in most local authorities, whether or not families are offered an FGC largely depends upon the social worker.
- Many FGC services are focused upon cases which are close to proceedings being issued, yet families often state that they wish they'd been offered an FGC earlier when problems first emerged.
- FGC services are non-statutory and a number are now closing or being scaled down, or the principles upon which they work are being compromised, as a result of funding cuts.²⁸

Recommendations:

- a) That the ***law is amended in line with the Netherlands***, so that families have the lead responsibility in creating a safe plan for the child within 6 weeks of concerns being identified, except in emergencies where, once the child's safety is secured, the family is also given the opportunity to address the presenting concern.

²⁷ Family Rights group will continue to monitor this changing picture and is about to undertake a much more detailed mapping exercise. Further information about this can be obtained from Cathy Ashley cashley@frg.org.uk.

²⁸ Barnardos, NCH, FRG (2002) *Principles and Practice Standards*; Ashley et al (2006) *Family Group Conference Toolkit* (DfES, Welsh Assembly Government, FRG)

b) That **local authorities are under a new duty to provide or commission an FGC service** within their area

c) That **all families are offered an FGC prior to care proceedings** (or in an emergency immediately afterwards), when the letter before proceedings is sent (at an earlier date as suggested above) if not before. When a family has previously turned down the option of an FGC, they should still be offered an FGC at this stage since circumstances may have changed as may their willingness to engage.

1.2.6 Family mediation services

We concur with the view expressed in the interim report that greater use could be made of family mediation to resolve disputes prior to care proceedings, whether it be between members of the family and the local authority in public as well as private law proceedings. This would be instead of resorting to court proceedings, for example, about aspects of the child protection plan. Although not yet widely used in this context, some Family Mediation Services (for example Cambridge) already have experience of mediation in child protection/public law cases.

1.2.7 Family and friends care:

In the last few years, there has been an increase in the number of children living with relatives or friends (known as family and friends care) when they cannot remain safely at home with their parents, instead of being raised in the care system. This is consistent with the child's right to respect for family life (Article 8 ECHR) and leads to positive outcomes for such children. Research shows that in spite of the fact that family and friends carers are often severely impoverished and support is poor or non-existent, the outcomes for children living in family and friends care are comparable to those of children in the care system who are living with unrelated foster carers²⁹. Yet there are important ways in which the child welfare systems are not working effectively to support family and friends care especially in the pre-proceedings stage. Points which are of particular relevance to the FJR are:

a) Failure to identify potential family and friends carers by the local authority can lead to serial assessments of different relatives within court proceedings at quite a late stage, potentially leading to considerable delay. The requirement in the revised version of the Public Law Outline (April 2010) to ascertain if there are other potential family members who could care for the child at the first appointment should have improved this; however, the routine use of family group conferences prior to care proceedings, would be more effective still in helping avoid such situations arising.

c) **Legal costs:** At present family and friends carers can ask for means and merits tested public funding to apply for residence and special guardianship orders (unless the applicant already has parental responsibility and is involved in care proceedings). However:

²⁹ Farmer, E and Moyers, S. (2008) *Kinship Care: Fostering Effective Family and Friends Placements* (Jessica Kingsley)

- Under Government proposals this will be restricted to those where the child is subject to a child protection plan, or there has been a fact finding by the court or criminal conviction/proceedings of child abuse.
- Relatives with more than a very modest income cannot obtain public funding because they are financially ineligible.
- Local authority support for legal costs is sparse. Some carers therefore use the free legal advice service provided by Family Rights Group (see www.frg.org.uk/advice) to understand their legal rights and the options open to them. Many carers end up being litigants in person when they make an application to court or end up in debt, as a result of legal costs incurred. Our January 2010 survey of family and friends carers found that the average legal costs to secure the child's future, for example, to be granted a residence order or special guardianship order, was **£3,640**, with the majority of carers receiving no financial help towards these costs. 82% of carers who spent over £10,000, were self-funded.

Recommendations:

- a) The proposals set out above in terms of FGCs should assist to identify wider family members at an earlier stage.
- b) That all ***family and friends carers should be exempted from recent LSC proposals to remove public funding*** from private law applications.
- c) ***Family and friends carers should have non means and non merits tested public funding to enable them to apply for special guardianship or residence orders*** where children cannot return home.
- d) To enable family and friends carers to obtain parental responsibility without necessarily having to bring a case to court, we propose that there should be a provision for parents (with parental responsibility) to enter into ***a parental responsibility agreement with a relative*** (as defined in S105 CA 1989), as has already been extended to step parents.

1.3 Conclusion:

The pre-proceedings stage of public law cases presents a real opportunity to engage with families to enable them to play a critical role in working with the local authority to make safe plans and find solutions to identified child protection concerns, and avert unnecessary care proceedings being issued, with substantial savings to the state. This is not addressed in the Munro review and it is therefore essential that the final report of the FJR addresses this in order that the opportunity to keep some children safely in their families is not lost.

Further, the report needs to highlight the importance of effective coordination and seamless service provision between local authority children's service which are under the remit of the Department for Education and the family courts system (under the Ministry of Justice) in public law cases.

2. Court scrutiny of care plans

We understand the rationale behind the proposal in the interim report that the court should no longer scrutinise the “details” of the care plan, so as to reduce court time spent on a case and allow the local authority to get on with the job of promoting the child’s welfare. However we believe that the key issues of sibling placements and contact or contingency planning in care proceedings, are fundamental to the child’s wellbeing. It is often only as a result of the judge’s authority and scrutiny that these key elements of the child’s plan are effectively addressed by the local authority. The fact that the judge can currently provide this scrutiny has not only transformed the outcome of the quality of the plan in many cases that come to our attention, but means that the local authority knows it needs to produce a plan that can stand up to such scrutiny.

The FJR proposals to remove these issues from court scrutiny will add to the drift towards less examination of local authority practice resulting from Munro’s recommendations to increase the discretion of professional social workers in working with children and their families. Whilst it is widely acknowledged that centralised targets and bureaucratic requirements have diverted social workers away from direct work with families and fettered their professionalism, nevertheless it also needs to be recognised that the initial shift to a more centralised approach was in part a reaction to drift and poor practice in some localities.

Our concern is that the combined impact of the implementation of the Munro review recommendations and these interim proposals would remove any meaningful external scrutiny and challenge to an area of law and practice, in which the state’s intervention has probably more far reaching consequences than any other yet is largely beyond external scrutiny:

i) Once care proceedings are finished, although parents are expected to be part of the review process, the local authority has the power to override their wishes (s.33(1)(b) CA) so can effectively go ahead and change the plan provided they have consulted them about the proposed change³⁰. The parents have no real forum in which to challenge this unless there has been a breach of their human rights (in which case they could apply for damages or an injunction under the HRA) but that is likely to be too late to reverse the decision for the child.

ii). Independent Reviewing Officers are expected to challenge poor practice and a failure to implement plans on behalf of the child but in some parts of the country their workload (up to 120 cases each) is such that they do not have the time or resources to challenge all aspects of the care plan which they feel do not meet the child’s needs. Moreover, the culture of local authorities varies, and some still attempt to minimise or sideline IRO’s independence or authority.

Given the limited resources of IROs and the context of the current financial cuts when local authorities are hard pressed to provide the essentials for looked after children, it seems contrary to children’s welfare to remove this key layer of scrutiny.

Recommendation: That *courts continue to scrutinise care plans* in terms of placement decisions, contact, sibling arrangements and contingency planning.

³⁰ Insert ref on HRA cases about consultation

Appendix 1:

TABLE A REPRESENTING SAVINGS MADE TO COSTS OF CARE AND LEGAL PROCEEDINGS RESULTING FROM THE FAMILY GROUP CONFERENCE

LOCAL AUTHORITY	No of children prevented from becoming looked after/ how evidenced		Cost saved ³¹	No of children returned to family from local authority care/how evidenced			No of legal proceedings prevented / how evidenced ³²		Costs saved	Overall cost saved
LA1	82	Social work evaluation	£2,315,762	3	Evidence d by referrer	£84,723	No Data			£2,400,485
LA2	38	Evidenced by referrer	£1,073,158	12	Evidence d by referrer	£338,892	38	Evidence d by referrer	£950,000	£2,362,050
LA3	30	Evidenced by referrer	£847,230	No Data			30	Evidence d by referrer	£750,000	£1,597,230
LA4	No Data			No Data			9	Evidence d by referrer	£225,000	£225,000
LA5	38	Evidenced by referrer	£1,073,158	26	Evidence d by referrer	£734,266	23	Evidence d by referrer	£575,000	£2,382,424
LA6	18	Evidenced by referrer	£508,338	15	Evidence d by referrer	£423,615	No data			£931,953

³¹ Based on child being in care for 12 months costing £28,241. See table Costing care episodes of looked after children: standard costs to social services of case management processes (foster care) (Loughborough University cost calculator)

³² The figures take into account the estimate in the DfES/DCA/Welsh Assembly (2006) *Review of the Child Care Proceedings System in England and Wales* p13 that the cost of the court process alone in individual care cases amounts to £25,000.

LA7	14	Evidenced by referrer	£395374	No Data			7	Evidenced by referrer	£175 000	£570 374
LA8	No Data			No Data			6	Evidenced by referrer	£150 000	£150 000
LA9	9	Evidenced by referrer	£254 169	2	Evidenced by referrer	£56 482	3	Evidenced by the plan	£75 000	£385 651
TOTAL S	229		£6,467 189	58		£1,637 978	116		£2,900, 000	£11, 005 167

Appendix 2: Informal survey by Family Rights Group indicating existing or planned provision of FGC service June 2011

	Is there an FGC service?	
	Yes	No - but one being established
NORTH EAST		
Darlington	Yes	
Durham	Yes	
Gateshead	Yes	
Hartlepool	No	
Middlesbrough	Unclear if spot purchase or contract	
Newcastle upon Tyne	No	
North Tyneside	No	
Northumberland	Partially	
Redcar and Cleveland	No	
South Tyneside	Yes	
Stockton-on-Tees	No	
Sunderland	No	
NORTH WEST		
Blackburn with Darwen	No	
Blackpool	Yes	
Bolton	Yes	
Bury	Yes	
Cheshire East Council	No	Intending to set up a service
Cheshire West Council	No	

Cumbria	No	Yes - being launched
Halton	No	Yes
Knowsley	No	
Lancashire	Partially in S Lancs	Yes
Liverpool	No	(service closed due to funding cuts)
Manchester	No	Service closing due to funding cuts
Oldham	Yes	
Rochdale	Yes	
Salford	Yes	
Sefton	No	
St Helens	No	
Stockport	Yes	
Tameside	No	Yes
Trafford	No	
Warrington	No	
Wigan	Yes	
Wirral	Yes	
YORKS & THE HUMBER		
Barnsley	Yes	
Bradford	Yes	
Calderdale	Yes	
Doncaster	No	
East Riding of Yorkshire	Yes	
Kingston Upon Hull, City of	Yes	
Kirklees	No	
Leeds	Yes	
North East Lincolnshire	Yes	
North Lincolnshire	No	Interested in getting service going
North Yorkshire	Yes partially	
Rotherham	No	Yes
Sheffield	Yes	Yes
Wakefield	No	
York	Yes	
WEST MIDLANDS		
Birmingham	No	

Coventry	Yes	
Dudley	Yes	
Herefordshire	Yes	
Sandwell	Yes	
Shropshire	Yes	
Solihull	Yes	
Staffordshire	Yes	
Stoke-on-Trent	No	
Telford and Wrekin	Yes	
Walsall	Yes	
Warwickshire	Yes	
Wolverhampton	Yes Pilot	
Worcestershire	No	
14		
EAST MIDLANDS		
Derby	No	Yes
Derbyshire	Yes	
Leicester	Yes	
Leicestershire	No	
Lincolnshire	Yes	
Northamptonshire	Yes	
Nottingham	No	
Nottinghamshire	No	
Rutland	Yes	
9		
EAST OF ENGLAND		
Bedfordshire	Yes	
Cambridgeshire	Yes	
Essex	Yes	
Hertfordshire	Yes	
Luton	Yes	
Norfolk	No	Service closed
Peterborough	Yes	
Southend-on-Sea	Yes	

Suffolk	Yes	
Thurrock	Yes	
SOUTH EAST		
Basingstoke	Yes	
Bracknell Forest	Yes	
Brighton and Hove	Yes	
Buckinghamshire	Yes	
East Sussex	Yes	
Hampshire	Yes	
Isle of Wight	Yes	
Kent	Yes	
Medway	May have closed	
Milton Keynes	Yes	
Oxfordshire	Yes	
Portsmouth	Yes	
Reading	Yes	
Slough	Yes	
Southampton	Yes	
Surrey	Yes	
West Berkshire	Yes	
West Sussex	Yes	
Windsor and Maidenhead	Yes	
Wokingham	No	yes
LONDON		
Inner London		
Camden	Yes	
City of London	No	
Hackney	Yes	
Hammersmith and Fulham	Yes	
Haringey	Yes	
Islington	Yes	

Kensington and Chelsea	Yes	
Lambeth	Yes	
Lewisham	Yes	
Newham	Partially	
Southwark	Yes	
Tower Hamlets	Yes	
Wandsworth	Yes	
Westminster	Yes	
Outer London		
Barking and Dagenham	Yes	
Barnet	Yes	
Bexley	No	
Brent	Yes	
Bromley	No	interested in establishing an FGC
Croydon	Unclear	
Ealing	Yes	
Enfield	Yes	yes
Greenwich	Yes	
Harrow	No	
Havering	Unclear	
Hillingdon	Yes	
Hounslow	Yes	
Kingston upon Thames	Unclear	
Merton	Unclear	
Redbridge	Unclear	
Richmond upon Thames	No	
Sutton	Yes	
Waltham Forest	Yes	
SOUTH WEST		
Bath and North East Somerset	No	
Bournemouth	Yes	
Bristol, City of	No	
Cornwall	Yes	

Devon	Yes	
Dorset	Yes	
Gloucestershire	No	
Isles of Scilly	No	Interested in setting up
North Somerset	Yes	
Plymouth	Yes	
Poole	Yes	
Somerset	No	Yes
South Gloucestershire	Yes	
Swindon	Yes	
Torbay	Yes	
Wiltshire	Yes	
Wales		
Neath Port Talbot	Yes	
Cardiff	Yes	
Carmarthenshire	No	
Vale of Glamorgan	No	
Bridgend	Yes	
Rhondda Cynon Taff	No	
Merthyr Tydfil	No	
Flintshire	Yes	
Wrexham	Yes	
Gwynedd	Yes	
Denbigh	Yes	
Mon	Yes	
Conwy	Yes	
Ceridigion	Yes	
Powys	Yes	
Pembrokeshire	Yes partial	
Newport, Monmouthshire	Yes	
Caerphilly	No	Yes
Torfaen	No	
Blaenau Gwent	No	
Swansea	No	