

# The Children Order Advisory Committee

*Sixth Report*

October 2005

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## FOREWORD

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The sixth report of the Children Order Advisory Committee (COAC) covers the period 1 April 2004 to 31 March 2005. This year has seen the completion of a number of long-standing tasks and the injection of completely new areas which we have now determined to tackle within the context of our remit. Our aim has been to focus evermore clearly on a limited number of projects, in which we will strive to provide constructive and definitive statements on the issues surrounding them and to rigorously present our views in a manner that hopefully will precipitate positive action to address the deficiencies that we have identified and adopt the resolutions that we propose.

To that end, we have seen the completion of the Court Welfare Officers report which has made a number of positive suggestions about the implementation of a court welfare system. Whilst the sub-committee has now been stood down in the wake of our report, we will re-visit this matter to monitor developments. Our Delay sub-committee has summarily finished its task but we regard that sub-committee as in temporary storage because this is a core issue that must be re-visited periodically by our Committee.

Our Secure Accommodation sub-committee is now approaching final resolution and a report in that matter should be completed very soon. Our paper on Separate Representation is now in the process of being put into the public domain largely through the good efforts of Ms McGaughey BL, its author and we await the response to that. The Case Management Task Group is scrutinising the role of the Guardian ad Litem and how best to utilise its resources and expertise. That work is nearing completion and will be circulated to the appropriate bodies.

Turning to our new projects, we have now set up four fresh sub-committees to ensure we move with the grain of the times and address current pressing issues. Firstly, we are considering the concept of a family justice system which would embrace family and youth justice for those children 14 years and younger. The Committee felt the time has come to address the fundamental principles underlying the Children Order and assess the possibilities of their extension into the criminal justice field where children are concerned.

Secondly, Child Adolescent and Psychiatric Services are a matter of profound concern to this Committee given the delay that the courts regularly face in dealing with such children. An in-depth consideration of the wider consequences of this problem will be considered. Thirdly, the Committee has set up an Early Intervention sub-committee to assess the need for early steps which would obviate the need for court proceedings in many instances, ease

the current burden on the courts and make more effective use of professional time to provide solutions for children in need.

Finally, we have now set up a Child Contact Centre sub-committee to address the pressing need for proper provision and financing of such centres throughout Northern Ireland. These centres are crucial to the proper workings of the court and if appropriately funded and created, could reduce the work of the courts by providing speedier and more appropriate solutions to the problems of contact with which the courts are all too often unnecessarily grappling.

The Committee at each meeting regularly considers the work of the Family Court Business Committees (FCBC's). Our minutes are circulated to them on each occasion. Even a cursory reading of the reports reveal the comprehensive and conscientious work that these FCBC's are carrying out. They provide the life blood for this Committee and give positive leads to our thinking in a host of disparate areas including practices and procedures. They also epitomise the multi-disciplinary approach which is the essence of the family justice system and the Committee thanks them for their unending efforts throughout the past year.

During the year we have lost some very distinguished servants to this Committee. His Honour Judge Markey QC resigned after many years of outstanding service and has now been replaced by His Honour Judge Rodgers. His Honour Judge McKay QC has been replaced by Mr Mervyn Bates RM after years of exceptional service. Professor Dominic Burke and Mr Norman Humes are similarly virtually irreplaceable losses to the Committee through other duties. Happily we have been joined by people of equally outstanding calibre, including His Honour Judge McFarland, Mr John Meehan RM, Mr Hugh Connor, Mr Cecil Worthington and Mrs Lorraine Young.

Our agenda remains full and comprehensive at each of our bi-monthly meetings. This work could not be carried out without the skilled assistance of the Northern Ireland Court Service and the Department of Health, Social Services and Public Safety (DHSSPS) (who also provide a hard-working and well informed secretariat to the Committee).

The work of this Committee continues to be challenging and exacting. We are sure that the forthcoming year will continue to allow us to avail of the talent at our disposal and to make further contribution to resolution of the problems arising out of those matters relevant to our remit.



The Honourable Mr Justice Gillen  
Chairman of the Children Order Advisory Committee

# The Children Order, The Courts and The Committee

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# 1

## The Order

The Children (Northern Ireland) Order 1995 came into operation on 4 November 1996. Widely recognised as the most comprehensive legislation relating to children ever introduced in Northern Ireland, it enshrines a number of key principles:

- The child's welfare shall be the paramount consideration in court proceedings
- Any delay in determining the question is likely to prejudice the welfare of the child
- No order or orders should be made unless that would be better for the child than making no order at all
- Where possible, children should be brought up and cared for within their own families
- Children should be safe and protected by effective intervention, but such intervention should be open to challenge
- Children should be kept informed about what happens to them and should ordinarily participate (subject to age and understanding) when decisions are made about their future and
- Parents continue to have parental responsibility even when their children are no longer living with them. They should be kept informed about their child and participate when decisions are made about their child's future.

Court proceedings under The Children (NI) Order 1995 are known as 'family proceedings'. The term also encompasses a range of proceedings under other legislation including:

- The inherent jurisdiction of the High Court in relation to children
- The Matrimonial Causes (Northern Ireland) Order 1978
- The Domestic Proceedings (Northern Ireland) Order 1980
- The Adoption (Northern Ireland) Order 1987
- Part IV of The Matrimonial and Family Proceedings (Northern Ireland) Order 1989
- Section 30 of The Human Fertilisation and Embryology Act 1990 and
- The Family Homes and Domestic Violence (Northern Ireland) Order 1998 (to be amended by The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005).

The main court orders available under The Children (NI) Order 1995 are set out below under the broad headings of Private Law and Public Law. Orders concerning financial matters are not included:

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## PRIVATE LAW

- Parental Responsibility Orders (Article 7)
- Contact, Prohibited Steps, Residence and Specific Issues Orders (Article 8)
- Family Assistance Orders (Article 16)

## PUBLIC LAW

- Care and Supervision Orders (Article 50)
- Child Assessment Orders (Article 62)
- Education Supervision Orders (Article 55)
- Emergency Protection Orders and Extension of Emergency Protection Orders (Article 63)
- Parental Contact with Children in Care Orders (Article 53)
- Secure Accommodation Orders (Article 44)

In any family proceedings in which a question with respect to the welfare of a child arises, the court may make an Article 8 order. This can occur either where a person entitled to do so makes an application or where the court gives that person leave or if the court itself considers that such an order is necessary. There are four types of Article 8 orders. These may determine with whom a child is to **reside** or have **contact**, may **prohibit particular steps** being taken concerning the child without the consent of the court or any other directions regarding **specific issues** concerning the child.

A family assistance order is available in exceptional cases and is the only order where the consent of all parties is required. The order offers short term support and advice to a family, perhaps following a divorce or separation and usually where one or more Article 8 orders have also been made.

## The Courts

The Children (NI) Order 1995 confers concurrent jurisdiction on the High Court, county courts and magistrates' courts. It provides for two specialist classes of courts to hear any proceedings under the Order. At the county court level, these are Family Care Centres and at the magistrates' court level they are Family Proceedings Courts.

Family Care Centres – these courts are presided over by county court judges. Their function is to hear cases transferred to them and appeals from the family proceedings court. There are four family care centres, situated in Belfast, Craigavon, Dungannon and Londonderry.

Family Proceedings Courts – these courts are constituted as juvenile courts presided over by a resident magistrate who sits with two lay magistrates. There are seven family proceedings courts – one for each county court division and they exercise jurisdiction throughout the division in which they are situated.

The concurrent jurisdiction referred to above is regulated to ensure that children's cases are heard at the appropriate level of court and that proceedings regarding the same child are heard in the same court. Subject to the overriding principle that delay is likely to prejudice the welfare of the child, Children Order cases may be transferred upwards to the higher courts when specific criteria have been established. These criteria can include where the matter is exceptionally grave, complex or important, or to consolidate with other family proceedings.

The general rule is that all Public Law proceedings are to be commenced in the family proceedings court. This is also the case with freestanding Private Law applications i.e. those applications made when there are no other ongoing family proceedings. As regards connected Private Law applications e.g. where there are divorce proceedings pending in the county court or High Court, such applications are required to be made to that court.

## **The Committee**

In recognition of the importance of The Children (NI) Order 1995 to children and their families, COAC was established to:

- Advise Ministers on the progress of Children Order cases through the court system with a view to identifying special difficulties and reducing avoidable delay and
- To promote through Family Court Business Committees commonality of administrative practice and procedure in family proceedings courts and county courts and to advise on the impact on Children Order work of other family initiatives.

COAC is chaired by the Judge of the Family Division of the High Court of Justice in Northern Ireland and its membership reflects the broad spectrum of disciplines and professions engaged in working with children, both in the courts and in other spheres. The membership of the Committee during the currency of the report is set out at Appendix 1.





### BEST PRACTICE SUB-COMMITTEE

The sub-committee was established in January 2004 following the publication of the Best Practice Guidance.

The intention was that the sub-committee would conduct a review of the workings of the Guidance after approximately two years i.e. in late 2005, unless an earlier date was indicated. Since there have been no significant difficulties reported, no interim meeting has proved necessary. The first review will therefore take place as planned later this year.

In March 2005, the Secretary to the Family Division Liaison Committee highlighted a new practice requirement issued by Master Hall. It applies to all cases which are referred to a High Court Judge and is to the following effect:

The solicitor for an applicant must lodge in the court office before the specified hearing date a short statement setting out the following:

- Case summary
- Chronology of the main events and
- Schedule of relevant assessments made to date.

The sub-committee will consider the operation of this practice requirement at the review with the intention of including it in the Guidance.

The sub-committee also examined the 'Protocol for Judicial Case Management in Public Law Children Act Cases' adopted by the courts in England & Wales in November 2003. Discussion centred on whether the protocol should be adopted in Northern Ireland. However, it was decided that no further action should be taken at this stage for the following reasons:

- To allow our own Guidance to settle into place and to enable the workings of same to be reviewed as planned and
- To enable sufficient time to pass to make an assessment of how the scheme is working in England & Wales.

Again this matter will be considered at the review.

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## **BUSINESS SUB-COMMITTEE**

It has long been a perceived jewel in the crown of COAC that it provides a high level inter-disciplinary membership for the family justice system within the remit that we have been given. We have recognised the benefit of Lord Justice Thorpe's words that:

"The delivery of a high quality service to all those who enter the family justice system, whether as applicants or respondents, must depend on informed collaboration. No one contribution can contribute more than his own best effort. But that best effort can be swiftly nullified by the shortcomings of anyone of the many other crucial contributors to outcome."

To that end we are constantly seeking means of ensuring that there is a genuine and comprehensive multi-disciplinary input into our deliberations, considerations and conclusions.

Consequently, we ensure that the minutes of the Committee are not only circulated to FCBC's and the Recorder of Belfast but active encouragement is given to members of the Committee to ensure that they individually disseminate the minutes to all of the bodies (both public and voluntary) represented on the Committee to ensure that not only is maximum publicity afforded to our deliberations but a full opportunity is given for feedback from all appropriate sources.

In order to further underline the comprehensively representative nature of our deliberations, we have set up a Business sub-committee which ensures that the agenda which is drawn up for each meeting is fully representative of all the views on the Committee and touches upon the concerns of those throughout the family justice system, provided of course that they are relevant to our remit. This ensures that the agenda is not simply that of one section of the Committee but is appropriately representative. The secretariat extracts matters mentioned at the previous Committee meeting which it is wished to re-visit, circulates this to the entire Committee together with requests for further topics to be included on the agenda and this then forms the basis for the agenda at the next meeting.

This Committee is illustrative of our unending attempts to ensure there is maximum input from all the disciplines to our deliberations and of our deference to the principle of multi-disciplinary inclusivity in all that we do.

## **CASE MANAGEMENT SUB-COMMITTEE**

This sub-committee was set up to examine the role of the Guardian Ad Litem (GAL) in relation to court timetabling.

It was the view of the sub-committee that the GAL could not make evidential directions in respect of the parties to the proceedings. However, this did not mean that they did not have a pivotal role in ensuring that appropriate directions were before the court at the earliest opportunity.

It was recognized that all parties have a responsibility to develop a meaningful timetable, the role of the GAL being that of co-ordinator in addition to contributing on behalf of the child.

The sub-committee was of the view that the initial application should clearly state the reasons for bringing the case and issues of dispute between the Trust and parents and saw no reason why this could not be included on the originating application (with an additional page attached, if necessary).

Guidance on this point was clearly given by Mr Justice Higgins in *Homefirst Community H&SST v SA* [2001].

It is also essential that consideration should be given as to whether or not the case should be transferred to a higher judicial tier at the first hearing.

The substantive directions in any given case should be made at the 8 week stage and the court direction must contain the date for final hearing. Expert witnesses should be identified and their availability to report factored into the court timetable. The GAL should ensure that an expert (recommended by the parties) has the appropriate experience. If the GAL does not know the expert or is not aware of the qualification of the proposed expert he/she must draw this to the court's attention.

There may be exceptional cases where a joint expert cannot be appointed but as a general rule efforts should be made to have an agreed expert. The GAL should ensure that the parents understand the implications of agreeing a joint expert to avoid situations subsequently where late requests come before the court where the parents do not accept the conclusions of the joint experts.

Experts must be able to confirm to the court that they can provide their reports on the directed date. It has become particularly prevalent for directions appointments to be vacated because expert witnesses do not report as directed by the court.

If a directions appointment is to take place to deal with a substantive issue, the parties should be present. The GAL should also be in a position to inform the court if the child wishes to be present or to give evidence and the effect that hearing such evidence and participation in the proceedings could have on the child.

It was also felt that every effort must be made to ensure that family case listings are not adjourned by the court because other court business runs on. It is recognized that this is sometimes unavoidable but the likelihood of this

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happening should be taken into account, as it is often very difficult for expert witnesses to rearrange their timetables.

These are just some of the issues considered by the sub-committee and formal recommendations encompassing these points, together with a proposed change to the Best Practice Guidance to reflect the views of the sub-committee will be put before the Committee in the near future.

## **CHILD ADOLESCENT & PSYCHIATRIC SERVICES SUB-COMMITTEE**

An emerging issue during the past year has been that of Child and Adolescent Mental Health Services (CAMHS). The stresses and strains within this service, largely caused by the inability to recruit professional staff (particularly psychiatrists) have placed a burden on the court system, the youth justice sector and social services.

This is a difficulty that is certainly not unique to Northern Ireland and is a problem encountered across the whole of the UK. In the Eastern Health & Social Services Board area for example, half of the established consultant psychiatrist posts lie vacant. Given the significant length of time it takes to train such staff, there are no quick solutions to some of these manpower issues using conventional approaches.

There is a clear link between the availability of appropriate assessment and treatment and being able to fulfil the legislative rights of these children and young people. There is concern that troubled and troublesome children and young people may not be receiving an adequate level of intervention and treatment on a timely basis and in an appropriate environment. This is substantiated to some extent through the recent 'Young Minds' survey, which suggested that adolescents in Northern Ireland are nine times more likely to be treated in adult psychiatric wards than their counterparts in the UK.

In recognition of this difficulty, COAC has set up this sub-committee. The inaugural meeting is scheduled for June 2005. It is planned that the sub-committee will have representatives from the legal profession, including a resident magistrate, children's rights organisations and the social services sector.

The sub-committee will seek to identify both quantitatively and qualitatively the concerns of the various sectors. It will look at the innovations in other areas of the UK and conscious of the current recruitment difficulties, it will seek to bring forward recommendations as to how these issues might be better managed in the short to medium term.

## **CHILD CONTACT CENTRES SUB-COMMITTEE**

This sub-committee was established in December 2004 and has had the opportunity to meet on one occasion.

The immediate issue for the sub-committee was the lack of funding. There is no doubt that child contact centres are a very important tool in the hands of solicitors, mediators and the courts when endeavouring to provide a safe supervised location for absent parents and other relatives to have contact with children of their families. All are voluntary bodies and budgetary concerns are paramount in their thinking. It is essential that this funding issue is addressed before any meaningful steps can be taken to develop the role of contact centres and to expand their geographic spread to cover the whole of the Province.

Unfortunately, due to a different approach in Great Britain than in Northern Ireland and a problem arising out of timing of public spending bids, we remain in a state of limbo with regard to funding. Whilst it is generally accepted that there is sufficient political will and that funding will be available at some time in the future, all parties must deal with this issue as soon as possible and a suitable vehicle for funding be identified and sourced.

To this end, the Chair of the sub-committee wrote to the Minister on the 21st April 2005. There has been a delay in the response due to the general election campaign and the undoubted settling down period for the new Minister to master his brief. A meeting is shortly to take place between COAC and the Minister and it is hoped at this stage, necessary progress can be made with this very important issue.

Once the issue of funding for contact centres has been resolved and is a little more secure in the short to middle term, it is hoped that they will be able to develop their full potential. To this end, the sub-committee looks forward to a close liaison with the newly created Northern Ireland Network of Child Contact Centres, which was launched in May 2005.

## **DELAY SUB-COMMITTEE**

This sub-committee conducted a lengthy and searching enquiry into the subject of delay in the court process in cases under The Children (NI) Order 1995. The work had lead to a consultation paper being drawn up with the intention of promoting discussion on and provoking reaction to the topic of delay within the system. It was part of a concurrent approach, which would feed into and be a source of material for the review of Best Practice Guidance which was duly published in 2004.

Our terms of reference were to identify possible causes for delay, to consider if those causes were purposeful and assess the steps necessary to reduce delay in the child's best interests in the future.

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We believe that the Delay Report has been both searching and comprehensive. We were gratified to note that no criticism of the consultation paper emerged and were satisfied that this reflects a general acceptance that the paper addressed current and meaningful issues in the delay process. We are conscious that the concept of delay moves with a grain of our times. Increasingly it has to be recognised that only an effective interdisciplinary support structure will raise the standard of performance and services within the family justice system so as to ensure that delay is addressed and reduced. It was the Committees intention that the problems highlighted in the consultation paper would be addressed by the Best Practice Guidance. Only time will tell whether having identified the problems, our suggested solutions have worked. To date the feedback seems positive but it is very early days.

Delay is a problem that is always with us. It must be tackled not only on a case-to-case basis but also on a more general front, to ensure that a culture of zero tolerance of delay wherever possible grows up within our court system. Equally that must apply only to non-purposeful delay because periods of calm reflection and measured restraint are an infinitely preferable course to swift perceptive action. We must avoid a numbers-driven exercise whereby reduction in hearing time is somehow regarded as an end in itself. Justice that is too swift can be justice flawed.

It is this balance that we have sought to strike and which we believe the Best Practice Guidance will address. Delay is a problem that must be regularly revisited and accordingly it is our intention to resurrect this sub-committee in the relatively near future to record developments and devise solutions.

## **DOMESTIC VIOLENCE SUB-COMMITTEE**

This multi-disciplinary sub-committee met on a number of occasions last year to share information and promote regional initiatives promoted by various bodies and organisations to try to tackle domestic violence issues.

### **Significant Harm and Domestic Violence Conference**

In September 2004 the sub-committee, in conjunction with the Directorate of Legal Services organised a regional conference with the specific aim of considering the impact of domestic violence upon children. The keynote speaker, Christine Mann is a consultant nurse and the National Domestic Violence Co-ordinator (Health and Mental Health) for England & Wales. She explained very clearly the range of impacts upon a child living in a family home where domestic violence is prevalent, and that in order to safeguard children, we must as a society start by protecting women effectively. Domestic violence is everyone's problem and is not merely the responsibility of the police, social services and the health service. She also provided an excellent reference list of research and articles relating to the impact of domestic violence upon children – see **Appendix 3**.

Barnardo's in conjunction with Ulster Community & Hospitals Trust and Southern Health & Social Services Board presented a Risk Assessment model for the management of referred cases of domestic violence. This model is being piloted within a number of Trusts in Northern Ireland and recognises that it is crucial that relevant personnel receive specific training to enable them to be aware of and understand the dynamics of domestic violence and its impact upon children. It is particularly useful for preparation of reports for Case Conferences and courts by the clear presentation of the evidence and risk analysis of domestic violence.

Details of the model are available from Barnardo's, c/o Children's Services Manager, Simpson Family Resource Centre, 40 Manse Road, Bangor, Co. Down BT20 3DA.

Dr Niall Falls, consultant child and adolescent psychiatrist provided a medical overview of the impact of domestic violence upon the child and family. He too stressed the importance of awareness for professionals and the public with specific training for teachers, police, social services, the health service, the legal profession and judiciary.

The evaluation of the conference was excellent and the main themes highlighted were development of multi-agency partnerships to tackle the issues and share information and training.

## **Training**

The sub-committee tasked itself to explore regional training initiatives already in existence, in order to identify training needs and to promote regional quality assured training opportunities.

At the time the sub-committee was collating this information the Regional Steering Group on Domestic Violence (RSG) was being established (Dec 2004). The sub-committee recognises that the RSG is the main driver for implementation of the strategy 'Tackling Violence at Home', which includes plans to provide and evaluate quality set out in regional training for multi-agency groups and organisations involved in domestic violence issues. Relevant training will also be given to members of the public and to school children. The sub-committee welcomes and supports this collaboration.

## **Public Prosecution Service NI**

The Public Prosecution Service (PPS) is to take responsibility for all criminal cases currently prosecuted by the Department of the Director of Public Prosecutions and the Police Service for Northern Ireland (PSNI).

Members of the PPS gave a detailed and interesting presentation to the sub-committee on the role of the new Service in the prosecution of domestic violence cases. Reference was made to the 'Victims, Witnesses, and the new PPS' policy document which aims to enhance existing services for victims



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and keep them informed of the key milestones throughout the prosecution process. There is a policy specifically for victims of domestic violence, following the English Crown Prosecution Service policy.

## **MASRAM Review**

In December 2004, an inspector from Criminal Justice Inspection NI gave a presentation to the sub-committee in respect of the inspection of the multi-agency procedures for the assessment and management of sex offenders (MASRAM). The core participants are PSNI, the Probation Service (PBNI), the Prison Service (NIPS) and social services.

MASRAM was introduced to Northern Ireland in May 2002. It underwent an inspection in 2004. One of the key recommendations was that the remit of MASRAM should extend to include **violent offenders**. This means that those **convicted** of 'violent offences' will have to 'register' on a 'Violent Offenders Register', similar to the 'Sexual Offenders Register'. This is very much welcomed by all those involved in tackling domestic violence.

## **Significant Harm**

The Adoption and Children Act 2002 received Royal Assent on 7 November 2002. It completely overhauls the adoption legislation in England & Wales, and makes important amendments to The Children Act 1989. The change most relevant to domestic violence is the definition of 'harm' which now includes any impairment of a child's health or development as a result of witnessing the ill treatment of another person. This came into operation on 31 January 2005. The sub-committee would welcome such a change to The Children (NI) Order 1995.

## **Draft Law Reform (Miscellaneous Provisions) (NI) Order 2005**

Part III Articles 10-15 makes changes to The Family Homes and Domestic Violence (NI) Order 1998.

It was disappointing that the proposed legislative amendments to The Family Homes and Domestic Violence (NI) Order 1998 do not allow a Trust to initiate an application, other than under an emergency protection order or interim care order. Also the exclusion requirement which can be attached to an emergency protection order and interim care order cannot be attached to a full care order.

The sub-committee would urge the Office of Law Reform and the Department of Finance and Personnel who prepared the draft Order to consider the comments in this report before its implementation.

## **Women's Aid Conference**

The sub-committee is well served by two representatives from Women's Aid, who facilitated an invitation to the Belfast and Lisburn Women's Aid conference "Why Doesn't She Just Leave" in November 2004.

The conference theme was to explore the mindset of blame, or at least prejudice, against the victim who 'chooses' to remain in a violent relationship. One of the conference aims was to try to change prevailing attitudes towards women who disclose violence, and towards the behaviour and responsibility of the perpetrator.

The conference programme had a range of excellent local, national and international speakers. It is beyond the remit of this paper to mention them all, other than to say that Women's Aid, as one of the leading providers of quality domestic violence training initiatives, staged an excellent conference which certainly assisted to inform best practice and policy development.

The sub-committee has had another busy and productive year. It is however recognised that in light of the establishment of the RSG in December 2004 and the fact that many of our sub-committee members also sit on the RSG, that perhaps COAC Domestic Violence sub-committee is no longer required. COAC will wish to ensure that the activities of the RSG are regularly reported to it and COAC remains available for debate and discussion of issues arising from the RSG.

COAC also recognises that the need for victim support in all court arenas extends beyond the actual court process. PSNI statistics reveal that on average, ten women report being assaulted by a male partner every day in Northern Ireland. Many of these women will be mothers and their children may suffer a range of pain and harm as a result. It is estimated that at least 11,000 children in Northern Ireland are living with domestic violence. Clearly there is much work to be done in order to effectively tackle domestic violence in the home.

## **EARLY INTERVENTION SUB-COMMITTEE**

The purpose of this sub-committee, which first met in November 2004 under the convenorship of a family care centre judge is to look at alternative methods of resolving family disputes and the issues associated with such methods.

'Mediation' has an established meaning in the area of family law. There is also an alternative expression – 'conciliation'. Both of these approaches or a combination of them can be used as a means of avoiding full court hearings. Each has a place in the established regime, neither however, addresses the concept of court avoidance per se.

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Family law has a unique place in our judicial system; where else do we encounter such multi-disciplinary participation, so many reports, different rules of evidence and formats of hearing which can have a life changing effect on children? Even judges who sit in cases in Crown Courts where substantial sentences may be handed down are quick to recognise the importance in the courts of cases involving children. Such children of course, are often unable through age and limited understanding to speak for themselves and the family justice system in particular must endeavour to hear their wishes and feelings and ensure that their best interests are protected. It is therefore important that if the trauma of court proceedings is to be obviated it must be done not just to avoid antagonism but principally for the well being of the children involved. Lawyers are familiar with the requirements of 'Re: L'. Consequently if a case is to be settled outside the courtroom the checks and balances set out in the judgement are their responsibility.

Collaborative law is making its way across the Atlantic as an alternative method of dealing with separation and divorce. Perhaps most radically it prevents the lawyer who handles negotiations from pursuing the case in court. In Canada, in intractable dispute (high conflict) cases where a single judge deals (robustly) with the directions hearings, that judge does not preside over the final hearing. Such concepts have much appeal as methods of Early Intervention.

The sub-committee see it as essential that solicitors embrace the concept as they are usually the first port of call and it is therefore important that they are motivated to explore non-court solutions. A major consideration is therefore the vexed question of costs. Consequently it is most important that the Legal Services Commission is involved in the sub-committee's deliberations and a representative has been duly co-opted.

There is also representation from Family Mediation, the HSS Trusts and the Office of Law Reform as well as resident magistrates and judges from family proceedings courts and family care centres.

Another focus of the sub-committee is that of the public's perception of any means of alternative dispute resolution as a way of settling cases. In other jurisdictions such as Canada, there is a mandatory requirement to participate in Early Intervention though to ensure the engagement of parties in such a process here may prove challenging.

Our court welfare officer system, while still very much in its developmental stage could nonetheless provide a means of bridging the gap between court and non-court resolution. At present the court welfare officer becomes involved only after cases have been initiated. Perhaps it should be possible for solicitors to contact them before issuing proceedings. Such a radical change would require not only the agreement of the court welfare officers but also their availability throughout the jurisdiction. The potential savings in

both time and resource in the preparation of welfare reports for HSS Trusts may nonetheless prove attractive.

In our present system, albeit quasi-inquisitorial, courts could be seen to be encouraging the drawing of battle lines. In an early intervention situation, sensitive negotiators could help the parties focus on the real issues and alert them to the common pitfalls of acrimonious and protracted contact and residence disputes – if the streams of disagreement can be diverted from becoming rivers of confrontation or torrents of misery so much the better for all concerned.

The sub-committee is also aware of the irony of a court system doing its best to abolish its involvement, but in order for Early Intervention to be effective it must surely involve lawyers. The plethora of case law and frequent legislative change together with the subtleties of ECHR rights need to be understood. The effects of Article 8 rights, Article 6 rights and rights to privacy are developing through recent decisions like ‘AR v Homefirst Community Trust’. Just as Trusts and solicitors need to be aware, so too must those who would seek to assume the mantle of early intervention.

The extent to which the discussions with parties before proceedings are to be regarded as wholly private as in mediation or to what extent they can be divulged to the court if there is failure to reach agreement has also to be considered.

As mentioned earlier we must also be especially aware of the views of the children and how best to secure these. We need to know about domestic violence, which can preclude conciliation in court. The recent launch of an assessment model by Barnardo’s could well have a place in identifying cases where more serious intervention is warranted rather than discussion between two warring parents.

Over the ensuing months, the sub-committee will discuss Early Intervention from the perspective of each of the disciplines involved with the aim of achieving what could be a major re-evaluation of our way of looking at family dispute resolution.

## **FAMILY JUSTICE COURTS SUB-COMMITTEE**

The concept of linking criminal and family law in relation to young persons and children is not a new one. However possible steps in nourishing and implementing the concept have been slow in coming. It is to this issue that this sub-committee is now turning.

The basic premise is that children and young people should be treated in a manner consistent with their tender years and in a family context. Currently in Public Law applications under the Children Order, proceedings are child-

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focused and proceed on a quasi-inquisitorial basis. In most incidences a Guardian ad Litem and legal representative will be appointed. In Private Law cases where again children should be the key focus, proceedings tend to be somewhat more adversarial with children often not present and rarely legally represented. In the juvenile justice system itself, the system appears to be entirely adversarial with great similarity to the adult system and the proceedings are essentially centred on the establishment of guilt and the handing down of punishment.

The Criminal Justice Review undertaken in Northern Ireland made reference to the concept of interdisciplinary conferences to make recommendations to the court on sentencing, which may include issues such as restorative justice.

The issue therefore to be considered is whether or not children should be treated in a similar fashion in all areas of the family or criminal justice system in which they appear, with a view to endeavouring to have outcomes to assist them into growing into mature adults and solid citizens in our society. Children should be treated differently from adults and more particularly should be treated in a non-adversarial and family context.

With that brief in mind, this sub-committee is looking at an all-embracing concept of a family justice system, where children of 14 and under would be dealt with not in a criminal justice setting but in a family justice context. To that end the sub-committee has decided to approach this matter from a number of disparate directions:

- We are engaged in gathering research on this issue both nationally and internationally in order to inform ourselves of academic, jurisprudential and legal thinking
- We are making contact with judges throughout the world in an attempt to glean working models that may be in operation to date
- We are considering the legislative framework in Northern Ireland that would require consideration, amendment, extension or creation in order to realise our object
- As in all such projects, there has to be a proper assessment of the resources available, the financial implications and the long term costs/savings that such a project might involve
- This is clearly a multi-disciplinary task and the views of all those involved in the whole family justice system must be canvassed and taken into account and
- There are wider implications for such bodies as the educational authorities, the mental health services, children in need, speech and language experts, physiotherapists etc.

We intend to approach this task in a thorough but hopefully creative manner recognising that the task in hand may take several months before we can make a final report and recommendation to the Committee.

## SECURE ACCOMMODATION SUB-COMMITTEE

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### Television Live Link Facility

The main task of the sub-committee during the last 12 months has been to devise a protocol for the use of television live link in family proceedings courts for Article 44 applications. Associated with this, it was also to identify and consider the required amendments to legislation, should such a method of addressing the issue of the transporting children to and from court be thought appropriate in Article 44 cases. As stated in the 5th Annual Report it must be stressed that the child's fundamental right to attend court in person, as enshrined in The Children (NI) Order 1995 and Article 6 of the European Convention of Human Rights (ECHR) must always be presumed to be the preferred option. A court will require strong grounds to persuade it to direct the use of live link as a substitute for the child's actual attendance at court.

### **Draft Procedure for seeking directions to permit a live link facility or change of venue in Article 44 Applications**

1. Consider guidance given at 3.1.27 COAC Best Practice Guidance - Secure Accommodation, in particular paragraphs 6 and 7:

‘6. The attendance of the child at each Court appearance must be given early consideration, and certainly prior to the first Court Hearing. See North and West Belfast H&SS Trust v DH 2001 NIJB 351 and RE D Unreported NI Family Division June 2002.

7. Arrangements for the child's transportation may need to be considered.

8. Hearings within the Rathgael site should be exceptional and should only be directed after formal application and determination by the court.’

Paragraph 6 should be amended as follows:

- 6 (i) The attendance of the child at each court appearance must be given early consideration, and certainly prior to the first court hearing. See North & West Belfast H&SS Trust v DH 2001 NIJB 351 and RE D Unreported NI Family Division June 2002. See also In the Matter of WK (a child) (Judicial Review) 2004 NIQB 76.
- (ii) The Trust must consider the child's wishes in regard to attending the family proceedings court in person.

If the child opts not to attend the hearing then it may proceed in his absence, but with the attendance of his legal representative and Guardian ad Litem (unless excused).

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If the child opts to attend then the Trust must conduct a Risk Assessment as set out in the 5th Annual Report (p.19-20) to assess the level of risk of the child absconding enroute to/from the court.

This Risk Assessment should set out the wishes of the child regarding attendance at court, and the child's response to the Trust's decision to apply for a television live link hearing.

- (iii) If the outcome of the Risk Assessment is negative then the Trust will consider whether or not to apply to court, either:
  - (a) To hold the hearing at Lakewood with the child present in person or
  - (b) To conduct the hearing by way of television live link.
- (iv) If the Trust elects option (a) or (b) above then the Trust must seek a direction in its substantive Article 44 application or by C2 in subsequent interim hearings for a hearing by television live link or at Lakewood and simultaneously lodge a formal written Risk Assessment. Three days notice should be given by the Trust of any such application to alter venue or seek a live link hearing.
- (v) The child, via his legal representative and/or Guardian ad Litem is at liberty to file a written statement of evidence in response to the Trust's application for the court to consider.
- (vi) The resident magistrate will consider the Trust's application and any written statements filed in response.
- (vii) The resident magistrate will make a decision regarding the child's attendance, venue and use of television live-link. In reaching that decision the resident magistrate will have regard to the child's fundamental right to attend in person, as enshrined in The Children (NI) Order 1995 and Article 6 of the ECHR. Any decision to permit a television live link hearing or change of venue must be proportionate to the degree of risk attached with the child attending court in person and the decision made must ultimately be in the child's best interests.

Can Paragraph 7 now be deleted?

Can Paragraph 8 now be deleted?

Paragraph 9 would become paragraph 7; Paragraph 10 would become paragraph 8.

Paragraph 11 would become paragraph 9. The following will be added:



‘Also, work to be carried out with the child to address the concerns which necessitated the Article 44 application. The placement arrangements must be explained in a manner which can be readily understood by the child and confirmed in writing – see precedent at Appendix II.’

Paragraph 12 would become paragraph 10.

Draft Protocol when proceedings are being conducted by television live link facility during Article 44 Applications:

1. The court room will be cleared of all other parties and legal representatives during television live link hearings.
2. The court clerk will dial Lakewood and establish the live-link connection.
3. The child will be brought to the designated room in Lakewood and will sit facing the screen and camera.
4. The court clerk will ask the child to identify himself and to confirm that he can see and hear the court.
5. The resident magistrate will introduce the proceedings to the child, explaining how the hearing will proceed and then introduce all parties present in court (including the Panel, the \*child’s legal representative, \*Guardian ad Litem, Trust legal representative, social workers and parents legal representatives). The court will also introduce any other professional witness, such as a representative from Lakewood, or other expert witnesses.

\*It will be at the discretion of the Guardian ad Litem and the child’s legal representative whether they each and/ or both attend at court or with the child at Lakewood.

6. The resident magistrate will inform the child that if he wishes to speak to his lawyer during the hearing (if his lawyer is in the courtroom) he should raise his hand.
7. The hearing will proceed.

## **Other Relevant Changes**

It is worth noting that The Rules of the Supreme Court (NI) (Amendment No 2) 2005 No. 163 came into operation on 18 April 2005. This amends inter alia Order 38 Rule 3(2) of the Rules of the Supreme Court by adding after sub-paragraph (d) the following new sub-paragraph:

‘(e) by the examination of witnesses orally by live television link, telephone or any other method of direct communication.’

It is appreciated that a child is a party in an Article 44 application, not merely a witness. Also, when a child’s liberty is restricted by a civil court and the child wishes to attend the court in relation to such serious proceedings, his wishes must be given the utmost regard in any application to alter this fundamental right in any way. Nevertheless the amendment to the Rules of



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the Supreme Court may indicate a possible legislative route for the necessary changes to The Children (NI) Order 1995 and relevant rules for television live link facilities.

## **Custody Care Orders**

In Part 4 of the Justice (NI) Act 2002, which has not yet been commenced, Article 56 introduces the concept of Custody Care Orders (CCO's):

- Where a child who has not attained 14 years, has committed an imprisonable offence, the court may make a CCO
- Under a CCO a child shall be placed in secure accommodation by the appropriate authority followed by a period of supervision
- The duration of a CCO shall be for 6 months unless the court specifies a longer period not exceeding 2 years
- The period for which a child is to be kept in secure accommodation under a CCO shall be one half of the period of the order, but the appropriate authority may, with the consent of the Secretary of State discharge the child at any time
- If the child reaches the age of 14 years during a CCO, he will be removed to a Juvenile Justice Centre
- During the period of a CCO certain provisions of The Children (NI) Order 1995 may apply i.e. Articles 26, 27, 28, 29, 30, 31, 34, 35, 36, 45, 72 and 73 or part thereof.

It will be interesting to see if existing care/interim care orders will be deemed to be of no effect during the period of CCO, as is the position with juvenile justice centre orders. An evaluation of resources at the Secure Unit, Lakewood will be required before CCO's are implemented. The impact of such orders on an already over stretched facility will be significant.

## **DRAFT LIVE LINK RISK ASSESSMENT CRITERIA**

### **Introduction**

The decision to use a live link rather than facilitate a child's attendance at the court should be carefully considered in each instance and should be based on the following principles:

- 1) The child should attend the court in person unless there are sufficient reasons to indicate that it would unsafe for the child to do so
- 2) The welfare of the child is the paramount consideration and the use of live link should only be considered if there is an assessed risk to the welfare of the child in question and
- 3) Each situation should be individually considered and a formal risk assessment undertaken for each court appearance.

## **Risk Assessment**

The following factors should be considered:

- Risk behaviours prior to admission to secure accommodation (level of absconding, degree of harm to self or others)
- Specific risks to the child, staff accompanying the child and to the public
- The child's behaviour, attitude and degree of cooperation since admission to secure accommodation
- Length of time since admission
- Level of cooperation and agreement with placement arrangements including exit strategy (to include the child and his family)
- Environmental factors i.e. any specific risks in returning the child to a geographical area/community where risks were previously evident and
- Risk management strategy – can the risks be managed sufficiently to facilitate attendance at court?

## **Decision Making Process**

The risk assessment should be undertaken by the Applicant Trust, in conjunction with Lakewood staff and in consultation with the child, its parents, legal representative and Guardian ad Litem.

A risk assessment for the first court hearing may have to be made without input from the child's legal representative and/or Guardian ad Litem if they have not been appointed.

A recommendation, supported by the risk assessment, should be made to the court prior to the hearing. The resident magistrate can then decide if the use of a live link facility is appropriate.

For initial hearings, within the 72-hour period, there may not be sufficient time to consult with the court beforehand. In these circumstances it may be necessary to proceed with arrangements for use of the television live link, if recommended, with contingency arrangements in place to have the child presented to the court if directed.



## Work of Family Court Business Committees during 2004/05

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### BELFAST

The Belfast Family Court Business Committee chaired by His Honour Judge Markey QC met four times during the period of this report. The Committee meetings were well attended and members fully contributed to the Committee's deliberations.

During the year a number of new members were welcomed including His Honour Judge Rodgers, Mrs B Kelly Resident Magistrate and Ms H Wells from the Directorate of Legal Services CSA. Mr Nixon Resident Magistrate resigned from the Committee at the last meeting in March 2005 following his re-assignment to work in other areas of magisterial law.

The continued concerns of the Committee in respect to the provision of secure accommodation were discussed during the first two meetings of the report period. It was the Committee's recommendation that a television live link facility should be provided in such cases but that funding could prove problematic. Mention was also made of the lack of provision for children who had psychological problems. The Committee deplored the fact that such children had to be taken to England for treatment or held in an adult facility here.

The Mediation Pilot operating in the Belfast Family Proceedings Court was frequently discussed. The Committee agreed that there were difficulties in identifying suitable cases to be referred. The Committee had asked for the assistance of legal practitioners and in order to highlight its availability a presentation by representatives of Relate NI was arranged for the Solicitors Association. It was also discussed by the Family Bar Association. The Committee looked forward to reviewing the results of the evaluation of the pilot, carried out by the Office of Law Reform.

Members also continued to express concern about the time taken by social services to complete reports for the court. It was acknowledged however that there had been an improvement and in general, reports were now lodged within ten weeks. It is hoped that this would be further reduced to eight weeks in the near future.

During the year, the Committee members were regularly informed as to the position regarding the appointment of new Guardians ad Litem. It was accepted that the Agency had made every effort to clear the waiting lists when a number of new Guardians had been subsequently appointed.

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The publication of the COAC Best Practice Guidance was also welcomed and members were encouraged to contact COAC if they had any constructive suggestions to make with respect to the amendment or expansion of these guidelines.

A number of issues were raised with the Committee in connection with the administration of Family Care Centre cases. It was decided that staff from the Family Care Centre Office would hold discussions with the local Court Liaison Officer. A system was initiated to inform him of those cases which needed input from social services. It was also agreed that a system would be devised to ensure that papers lodged at the court office were placed on the relevant file as soon as possible.

The valuable assistance already provided to the Family Care Centre by the local Court Welfare Officer was mentioned. However, while she would be able to provide assistance in cases in which she had been involved at the family proceedings courts, she indicated that she could not provide assistance with any new cases initiated in the care centre.

At the last meeting of this report period, the Committee discussed the Court of Appeal judgement AR and Homefirst Community Trust. The members agreed that the Trusts needed to be “even-handed” in their approach and a balanced report must always be provided. The Committee also felt strongly that the parents must be afforded an opportunity to make representations to the decision makers in their case. The Committee was informed that workshops to discuss the issues around the judgement were being arranged for the Directors and Assistant Principals of all Trusts.

The Committee also discussed the issue of separate representation for a child at court. It was agreed that the present legislation should be amended to allow for this at a family proceedings court. It was also felt that COAC would be better placed to take this matter forward.

The Chairman wishes to thank the members of the Committee for their valuable contribution during the year.

## **LONDONDERRY**

During this year the Londonderry Family Court Business Committee has contributed to the debate in relation to the TV live link appearances of children in secure accommodation proceedings.

The Committee felt that such appearances should only occur after a risk assessment clearly established that there was a risk of the child absconding on their way to or from the court during the proceedings or were likely to endanger themselves or those responsible for their transport to court.

It was also the view of the Committee that if a hearing was to be held by this means, the child's solicitor should be present in court and the Guardian ad Litem should be with the child at Lakewood where evidence could be given by both if necessary through the TV live link to the court.

The Committee also heard a presentation by a representative from Judicial Studies Board in June 2004 in respect of the proposed training for the new lay magistrates. It was ultimately agreed that a maximum of 5 Lay Magistrates should be present in the family proceedings court at any one time to observe the court hearing both Public Law and Private Law applications.

Previously the Committee had advocated the setting up of a family care centre (FCC) in Dungannon for the Division of Fermanagh and Tyrone.

The volume of business in the area covered by Londonderry FCC was difficult to manage as a substantial amount of judicial time was required to deal with crown business. An FCC in Dungannon had the potential of reducing the time spent by social workers and parents travelling to and from court.

The County Court Judges (Family) Committee also supported the concept of a fourth FCC as recommended. It was duly established in Dungannon on the 6th September 2004.

Potentially as legal practitioners could be appearing in both jurisdictions, the two Care Centre Judges agreed to liaise on case listing and directions appointments days and family trial weeks. The introduction of the fourth Care Centre has enabled the Londonderry Court Business Committee to concentrate its efforts on achieving improvements in facilities to assist the court in Public Law and Private Law proceedings within the jurisdiction.

The Committee has continued to work in conjunction with Foyle HSS Trust to improve the effectiveness of the court welfare officer.

A system was developed whereby the legal representative would fill out a form devised by the Trust.

In March 2005 the legal practitioners were invited to hear a presentation as to the type of contact cases it was felt should be referred to the court welfare officer. The Trust had developed a referral form in which legal representatives of parties wishing to avail of the service would insert relevant information. The resident magistrate would then consider the application for referral to the court welfare officer on the basis of the information in the form and decide whether or not it was a suitable case. After a full decision involving the views of everyone concerned agreed amendments were made to the referral form.

# 3

The initiative for this originated with Foyle HSS Trust.

It is quite clear that this type of co-operation between the legal and social work professionals to provide a better service to the public has occurred because of a better understanding of each others aims and professional difficulties which came to light as a result of the inter-disciplinary training events initiated by the Business sub-committee.

Eight years of sustained effort to obtain a child contact centre was rewarded on the 26th of March 2005 with the opening of Foyle Child Contact Centre. The Business sub-committee has decided to co-opt Elizabeth Fielding from the Contact Centre's Management Committee.

It is now hoped that the two organisations will be able to work closely and while court reports will not be available to the contact centre, it will nonetheless be in a position to access the court welfare officer to advise if a family require additional assistance.

It is the Committee's intention in the coming year to be able to devise a programme with Care West in relation to co-operative parenting after separation. The purpose of this initiative is for those parents engaged in acrimonious contact disputes to access information and help through the voluntary sector, to consider the effect of such action on their children.

The Committee wishes to thank all those who have contributed to its work in the last year.

## **CRAIGAVON**

This Committee met on five occasions during the period 1 April 2004 until 31 March 2005.

One of the main issues discussed during the year was the difference in the provision of court welfare officers at the three family proceedings courts in the area, namely Craigavon, Lisburn and Newry. In Newry, the service is provided by Barnardo's and runs to the satisfaction of the court. In Lisburn, the Down Lisburn HSS Trust provides a full-time service of a very high standard. On many court days, two social workers are available to mediate at the court and in addition they make appointments to see the parties (and where appropriate, the children concerned) between courts. The amount of time and money saved by their work is considerable, quite apart from the benefits for the children where agreement is reached.

Indeed, the Lisburn court welfare officer service won a major prize awarded by the local Trust, namely the Chairman's Prize to the value of £25,000. The court welfare officer, a social work team leader and others gave a presentation to the judging panel about their work in Lisburn Courthouse and

were supported by the resident magistrate. The award is a well-deserved recognition of the contribution they make and the prize will enable the service to be expanded.

In contrast, at Craigavon only one social worker attends the court (in the role of court liaison officer) and that person has other full-time duties, so is unable to make appointments to see parties between courts. The result is that more written reports have to be ordered. The Committee was informed over a year ago that an application had been made to Craigavon and Banbridge HSS Trust to fund a full-time court welfare officer service. However, while the Committee has pressed for a decision at the time of writing none has been made.

The Committee is aware that COAC is looking at the issue of court welfare officers generally and is hopeful that the outcome of that work will encourage the Trust to provide a full-time service in Craigavon.

During the year, the Committee prepared for the arrival of the new lay magistrates and received a presentation on the proposed training. Through February and March, the resident magistrate swore in 27 lay magistrates for the Division of Craigavon, of whom 13 were existing lay panellists. One happy outcome of this process is that several of the new appointees, having noted the absence of a contact centre in Craigavon are involved in establishing a centre in the area. This will greatly assist the work of the local family proceedings court.

The Committee monitored the statistics provided in the Children Order Quarterly Bulletins. All three family proceedings courts in the area had lengthy lists and there was concern about the number of contested hearings being listed in each court (and the consequent sitting times) particularly in Newry. However, local Business Managers have addressed the issue and additional courts have now been scheduled in each area easing the situation. Problems remain with the ability to provide some Article 4 reports within 8 weeks, but the Trusts are addressing this issue also.

Following the success of the seminar entitled 'Recognizing and Evidencing Emotional Abuse and Neglect' held in March 2004, the Committee has been looking for further subjects on which training might be given. The cases of 'AR v Homefirst Community Trust' on care orders and 'X Council' on emergency protection orders have been discussed in this regard.

Finally, the Committee would wish to acknowledge the support of all its members who gave of their time so generously in attending meetings and contributing to the work and also thank the secretaries to the Committee for organising the meetings and preparing the minutes.



# 3

## **DUNGANNON**

Dungannon Family Care Centre became operational from September 2004. No meeting of the new Family Court Business Committee has been convened during the period up to 31 March 2005. It is hoped that the inaugural meeting will take place in June 2005. The reason for the delay was deliberate to allow the new facility to settle into a pattern and therefore enable interested parties to evaluate how the family care centre is working and if it meets the needs of those parties.

The family care centre has started in a satisfactory fashion. By agreement, the Recorder of Londonderry transferred such cases as she considered should be transferred and retained those that were either part-heard or were better kept in Londonderry for whatever reason. A steady flow of business has enabled the care centre to establish reasonably satisfactory systems of practice.

Informal contact has been maintained with local solicitors and counsel to identify best practice with regard to listing. The policy of listing new cases as soon as is practicable (normally within two weeks of receipt) to establish the issues at an early stage, to give directions and timetable is working well. These hearings are normally listed at 10.00a.m. on mixed-business days. The care centre then sits at regular intervals, one week at a time, to deal with contested hearings. These weeks are set aside in consultation with Londonderry Family Care Centre, to avoid difficulties for solicitors, counsel and professional witnesses, many of whom would be required to appear in both care centres.

## Issues Considered/Addressed by The Committee during 2004/05

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# 4

### SEPARATE REPRESENTATION SUB-COMMITTEE

During the past year COAC has monitored the current debate on hearing the voice of children in legal proceedings which concern them. Children whose parents have initiated Private Law applications to regulate parental responsibility, residence and contact do not enjoy the automatic party status granted to their peers who are the subject of Public Law proceedings.

In Public Law or “specified” proceedings children enjoy the benefit of representation by a solicitor and a Guardian ad Litem. Public Law applications involve questions of child protection and can result in the parent being deprived of their parental responsibility or at least restricted in the exercise of such parental rights and duties. The challenge posed by Private Law proceedings lies in empowering children to participate in a meaningful and appropriate manner in the decision making about their futures.

As noted in the Fifth Report, COAC identified discrete issues arising from the report prepared by the separate representation sub-committee. These issues included the role and function of the court welfare officer. The working group established by COAC to consider the court welfare service reported during the year and its findings are noted elsewhere in this report.

During this year the separate representation report was amended to reflect current developments on this topic including the reform of the Children and Family Court Advisory and Support Service (CAFCASS) and recent case law articulating the impact of the Human Rights Act on proceedings involving children.

COAC is anxious to contribute to the debate on the provision of separate representation and to ensure that Northern Ireland benefits from a bespoke model of such provision which meets the needs of children and reflects local conditions. The report on separate representation is designed to stimulate debate and in pursuit of this objective the report has been amended to include questions designed to evoke a response from readers. All responses will be analysed and used to inform any proposals regarding the provision of separate representation for children in Private Law proceedings.

As the next stage in this process, COAC has now forwarded the separate representation report to the respective ministers of the Committee’s two sponsoring departments, namely DHSSPS and the Northern Ireland Court Service.

# 4

## **COURT WELFARE OFFICERS**

The need to establish a sub-committee into the court welfare service arose from information provided by Family Court Business Committees (FCBC's) about the varying approaches that Trusts employ in providing Article 4 reports to the courts. COAC recognised the excellent work done by court welfare officers and acknowledged that their involvement had the potential to reduce delay and obviate the need for a report by being available to deal with matters during a court sitting. COAC decided at its June 2003 meeting to establish a sub-committee to consider how HSS Trusts were responding to requests from the courts for Article 4 reports and to make recommendations on the way forward.

The inaugural meeting was held in October 2003; the sub-committee met on four occasions between then and April 2004.

The terms of reference of the sub-committee were:

- To establish the legal basis for courts requesting court welfare reports in Private Law cases, highlighting where appropriate any operational difficulties experienced by the courts and Trusts
- To establish the current level of demand for court welfare reports in Private Law proceedings and timescale for the provision of such reports, noting any variation across Northern Ireland. Also, to consider the historical and legislative context in provision of Private Law cases
- To consider existing arrangements within Trusts for providing courts with reports in Private Law proceedings and to consider the structure of information provided to the courts and the current and future role of court welfare officers and
- To report to the Committee on its findings, including making recommendations on how to structure services efficiently to ensure a timely response to court requests for such reports while taking into account the priorities, staffing and financial resources available within Trusts.

The membership of the sub-committee included the Recorder of Londonderry, a resident magistrate, representatives from the Bar and family solicitors, social services, the Social Services Inspectorate and a court welfare officer.

A number of focus group meetings took place across professions and agencies to establish the nature of existing arrangements, to identify key issues in the operation of these arrangements and to make recommendations on the way forward. The following summarises current arrangements in place across Trusts:

- One Trust has a service level agreement with a voluntary organisation to complete Article 4 reports on its behalf
- One Trust has no court welfare officer. Its Family and Child Care team complete all Article 4 reports
- One Trust has recently commenced a pilot of employing a part-time court welfare officer to evaluate the benefits of such a role
- One Trust has a part-time court welfare officer for one of its sectors and has a consortia arrangement with two other Trusts for the other sector
- Three Trusts have dedicated court welfare officers in post and
- Four Trusts have consortia working arrangements in place.

The reasons for the wider regional variation in models of provision are complex. They include:

- Some Trusts boundaries are extensive and they cover more than one court area. Often this means that boundaries overlap in relation to court work. Logistically therefore, it has been found beneficial to work together
- There has been no overarching strategic approach taken to developing a court welfare service in Northern Ireland; individual Trusts have therefore, taken individual decisions designed to meet Article 4 requests from the courts in a timely fashion
- A number of commissioning HSS Boards have not provided monies for court welfare services therefore, a number of Trusts have had to realign some of their Family and Child Care teams budgets to pay for a court welfare officer post and
- There has been no analysis of workload upon which to base a workforce strategy in respect of the number of court welfare officers needed to service the needs of the courts in respect of Article 4 requests.

The sub-committee also considered how a court welfare service should be organised in the future. None of the three models presented were without problems. The sub-committee put forward the following recommendations to take forward the development of the court welfare service, regardless of which model COAC endorses.

## **Recommendations:**

- The Northern Ireland Court Service should consult the judiciary, legal profession and social workers regarding the feasibility of timetabling cases to reduce the waiting time in courts for both court welfare officers and social workers attending to provided Article 4 reports
- Members of the judiciary requesting Article 4 reports should be specific about the nature and type of report that they require
- In an effort to manage workload demands on Family and Child Care teams arising from requests for Article 4 reports, Trusts should review the adequacy of how existing arrangements for meeting this statutory duty are operating

# 4

- A common job description and job specification should be developed by Trusts (in consultation with the courts) for court welfare officers
- Trusts should work together to develop a common reporting pro forma for use by court welfare officers
- A court welfare officer forum should be established to enable the sharing of expertise and to facilitate training for this group of staff
- The FCBC's should routinely consider the operation of the court welfare service with a view to identifying issues at an early stage and engaging with Trusts to resolve such matters in a timely manner
- DHSSPS should consider current arrangements for resourcing court welfare services to improve their adequacy
- A workload analysis should be jointly commissioned by DHSSPS and Northern Ireland Court Service to inform the appropriate establishment level for court welfare officers and
- Consortia arrangements between Trusts for the provision of court welfare services should be formalised through the establishment of protocols that are subject to annual review.

## NICCY PRESENTATION

The following is a synopsis of a presentation made to the Committee in April 2004 by Linda Kerr, Head of Legal Services and Complaints within NICCY:

The structure and role of the Northern Ireland Commissioner for Children and Young People (NICCY) is briefly set out below.

There are three teams within NICCY:

- Legal Services and Complaints
- Research and Service Review and
- Communication and Participation

Up to April 2004, there had been over one hundred complaints to NICCY. A lot of these complaints involved the issue of service provision and NICCY was able to help children with a disability access help.

NICCY have also received a lot of complaints about the statementing process for children with special educational needs regarding deficiencies in both the statements and how they are implemented. A parent can request a Statement of Special Educational Needs from the Education and Library Board. There are various sections in the statement, some of which refer to the Board's responsibilities and others that are the responsibility of the health services. Only those that bind the Boards are enforceable by reference to the statement.

If a child's need is not exactly quantified, it will also be very difficult to ensure that adequate provision is made. Often parents wait up to two years for their child's statement and when it is provided they are dissatisfied because it does not recognise a special need such as speech therapy or does not specify the amount necessary. This is particularly the case where children are autistic. NICCY have had a substantial number of cases on this subject involving both health and social services and education provision.

NICCY have not received a lot of complaints on family law issues. In part this is to be expected, as only those that involve social services or other organisations within their remit can be actioned. The Commissioner does not get involved where the conflict is solely between the parents, as that is the role of the courts. NICCY is developing their relationship with NIGALA (where they have been appointed to represent the child) and intend to build on this. While NICCY has the power to intervene in court cases, it is not envisaged that this will occur on a regular basis. NICCY would see intervention as a possibility where they had carried out research on a particular issue and felt this information was relevant to the court.

During the presentation, NICCY were asked about the issue of delay in Children Order cases. Distinction must be made between delay for no particular reason and where the delay was constructive. If the time is used to do work with the children or parents either by social services or using mediation, the positive outcome could outweigh any concern about delay. Referring to the report of the COAC Delay sub-committee, NICCY agree with the content especially regarding the need for an effective inter-agency support structure and echo the point made about the complexity of the issues to be decided, including the analysis of the effect of domestic violence on the child. They would support the need for separate representation of children to be available if necessary. Part of the NICCY mission statement is ensuring that the voice of the child is heard and nowhere can it become more lost than where parents are in conflict.

NICCY sees its interests and that of COAC as coinciding in that both seek to help the legal system work more efficiently in protecting and safeguarding the rights and best interests of children and young people.

## **NIGALA WAITING LIST**

In April 2002, the Board of NIGALA decided with great reluctance, to establish a waiting list of appointments of Guardians ad Litem by the courts. The decision was taken at the end of the year 2001/2002 during which time there was an increase in demand from the courts of 21% compared with the previous year i.e. 599 new cases (968 children) compared with 489 new cases (767 children). When in 2002 it became evident that no additional resource was to be made available to the Agency, the decision to institute a waiting list became inevitable.

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In effect, given that excess demand became manifest in early 2001, NIGALA has been working under constant pressure for virtually a four year period.

In April 2005, demand from the courts returned to the 2001 level thereby enabling the Board to end the waiting list. During 2004/2005, the Agency was able to allocate almost 75% of the new appointments within 10 working days of notification. The breakdown was as follows:

- Specified Public Law – 74% within 10 working days and
- Adoption – 72% within 10 working days

NIGALA is a member of the Health, Social Services and Public Safety family in Northern Ireland and therefore must compete for funding within a sector that is generally under resourced. At a time when major problems are being experienced across the spectrum of public services in this jurisdiction, it is impossible to provide reassurance that a waiting list will not have to be used again. However, at least for the immediate future it is no longer a requirement.

One of the problems of having to retain a waiting list over such a long period of time is that it tends to obscure the many excellent achievements of the Agency, in particular its continuing determination to deliver an ever-improving service to the child who is subject of proceedings. There is a tendency on occasion, to dwell upon day-to-day problems engendered by an issue such as a waiting list and forget the positive aspects of the service. Although NIGALA regularly reported high levels of user satisfaction as evidenced by its own systems of feedback, it was nonetheless pleasing to find independent corroboration in an impartial review of the Agency. A comprehensive audit of NIGALA commissioned by DHSSPS assessed the service as follows:

“Firstly, it is important that we recognise that NIGALA has come from a zero base in 1996 to the position of a fully established, functioning agency providing highly specialised and complex services in 2004. The Agency has been successful in recruiting and retaining a panel of GALs with extensive experience in social work, child protection, adoption and related fields, and has developed a support infrastructure to facilitate the effective delivery of its services. As reported elsewhere in this document, many of the opinions held by stakeholders regarding NIGALA are very positive, and our own comparative analysis leads us to believe that NIGALA compares favourably with many of its counterpart organisations in other jurisdictions. It is significant that a number of international consultees whom we have contacted during our research have indicated the high regard they hold for the GAL system in Northern Ireland, and the format and structure of NIGALA.”<sup>1</sup>

<sup>1</sup> Review of the Northern Ireland Guardian Ad Litem Agency. DHSSPS March 2005



In the coming year one of the Agency's objectives is to further empower the child to participate in proceedings. This means that in addition to the attendance of the child in court when appropriate, there will be an emphasis on a number of other ways of enabling the child to participate as fully as possible. It is also anticipated that NIGALA (and others within the court system) will begin to hear feedback from children of 10 years plus who have been involved in Public Law proceedings. The electronic 'Viewpoint' programme is producing a richness of information, which will help us all maintain a focus on children and their needs.

Much still needs to be achieved to ensure that court proceedings, both in Private Law and Public Law, are more child and family orientated. NIGALA will continue to inform debate in this regard and to play its part in what has to be an inter-agency endeavour.

## **RESPONSE BY COAC TO 'MAKING IT r wrld 2' – CONSULTATION ON A DRAFT STRATEGY FOR CHILDREN & YOUNG PEOPLE IN NI**

The following is a response by the Committee made to the draft strategy in February 2005:

### **Introduction**

COAC welcomes the development of a strategic framework to promote and protect the rights and best interests of children and young people in Northern Ireland. We commend the Children and Young Person's Unit of the Office of the First Minister and Deputy First Minister (OFMDFM) for their efforts to date in the development of such a strategy, for the implementation of an imaginative consultation process and for providing our Committee with the opportunity to provide our views on the content of the current consultation document.

Having considered the consultation document in detail however, we are of the view that whilst many of the matters raised by us in the previous consultation have been included in the draft Strategy, a number of important issues have not been adequately addressed. We have a number of constructive suggestions to make in this regard which are set out below.

We have restricted our comments to those areas falling within our remit, which is set out in Chapter 1 of this Report.

### **Overall Structure of the Strategy for Children & Young People**

We had suggested in our original response that a section of the Strategy should address the overarching legislative and policy framework and context



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in which services for children and young people are provided in Northern Ireland together with an outline of Health Board, Health Trusts, Education Board and court structures. Section 3.1 of the Strategy outlines the impact of government departments on children and young people, but there does not appear to be a section outlining the legislative framework in Northern Ireland. We would suggest that a paragraph should be inserted in Section 3 outlining the legislative framework in which the Strategy will operate and specifying in particular The Children (NI) Order 1995 and accompanying Regulation and Guidance together with other key legislation in relation to children in education, youth justice, employment, social security and health/safety.

We are of the view that there should be a clear section in Chapter 1 of the Strategy outlining values and principles, which should encompass the key principles under The Children (NI) Order 1995 which are set out in our initial response.

## **Purpose of Consultation (Chapter 1) and Setting the Scene (Chapters 2 & 3)**

In that initial response we concurred with the view expressed in ‘Creating a Vision for our Children’ that the United Nations Convention on the Rights of the Child (UNCRC) should be the framework and starting point for the Strategy. We welcome the development of a rights based whole child approach. We have however, noted that the draft document no longer refers to the Strategy as being the implementation plan for the UNCRC<sup>2</sup> or a benchmark<sup>3</sup> but rather states, “the strategy will have an important link to the UNCRC<sup>4</sup>.”

We are aware that the UNCRC has issued General Guidelines for Periodic Reports<sup>5</sup> which have made it clear that national children’s strategies must be developed within the framework of the UNCRC and has recommended that comprehensive rights based national plans of action covering all the principles and provisions of the UNCRC and accorded adequate human and financial resources should be developed<sup>6</sup>. We recommend that it should be stated unequivocally at the outset that the Strategy for Children and Young People in Northern Ireland will serve as the implementation plan for the UNCRC, that it will be clearly based on the principles and provisions of the UNCRC and that it will address the Concluding Observations of the United Nations Committee on the Rights of the Child (2002).

In our view, in addition to the key rights for children enshrined in the UNCRC, the Strategy should refer specifically to the recommendations made by the UNCRC throughout the document. There is only one reference to the recommendations in the consultation document, which is set out below:

2 Working Paper, 10/03, Para 1.2.5

3 Creating a Vision for Our Children, 03/04

4 Paragraph 2.3.2

5 CRC/C/58/para17

6 CRC/C/Add199

*“It recognised, however, that there was still much work to be done and highlighted a number of areas where it would wish to see further action, for example in relation to integrated education”.<sup>7</sup>*

The Committee on the Rights of the Child made almost thirty recommendations in October 2002 and it is our view that these should be clearly referenced throughout the Strategy so that progress on these issues can be followed. Strategic objectives and outcomes should in fact flow from each recommendation of the UNCRC.

The Strategy should contain a paragraph in Section 3 in relation to key developments and case law relating to the emergence of children’s rights under the European Convention on Human Rights (ECHR) particularly under Articles 2,3,5,6 and 8 and Protocol One, Article 2 as incorporated by the Human Rights Act 1998 and key themes should be incorporated throughout under each strategic objective heading.

It is noted that the Strategy now refers to the rights and “responsibilities” of children and young people. We are of the view that some clarification is required in relation to this significant change in terminology.

Statistical data in relation to the progress of Children Order cases is available in the Fifth Report of COAC, which could usefully be referred to in the Strategy document.

We note that the Northern Ireland Court Service has endorsed the Strategy. Figure 3.1 provides a brief description of the role of the Northern Ireland Court Service. We would suggest that a short paragraph is inserted in Section 3 about the role of the courts and court structures, outlining different types of family proceedings. In addition, the role of the Guardian ad Litem and solicitors for children together with the current support services available for children and their families should be explained briefly in a separate section as these do not come within the remit of the Court Service.

### **Specific Areas for Consideration within the Strategy**

In our original submission we set out certain issues within our remit, which we would expect to see encompassed within strategic objectives of a strategy for children and young people. We have revisited these below cross-referencing them with the content of the current consultation document and would make the following comments and suggestions:

- 1) All strategic objectives should be time limited, measurable and subject to scrutiny and review***

There are no timescales indicated under any of the strategic objectives listed in the consultation document.

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**2) *The best interests of the child principle should be enshrined in all legislation and policy affecting children and young people***

We note that this is a strategic objective in the Strategy<sup>8</sup> and we welcome this. The draft action relating to this strategic objective seems to suggest however that only new policies and legislation will be proofed. We suggest that this draft action be expanded to include proofing existing policy affecting children and young people.

**3) *The Strategy should provide an overarching framework for the meaningful participation of children and young people in decisions that affect them, according to their age and understanding. This should specifically include the question of separate representation of children in Private Law proceedings***

We note that there is a wide strategic objective under the heading ‘Rights and Equality’<sup>9</sup> in relation to ensuring that the rights and best interests of children and young people are explicitly recognised in law, policy, planning and service delivery and that there is also a strategic objective under the heading ‘Participation’ in relation to the development and support of appropriate structures to ensure the participation of children and young people<sup>10</sup>.

However under draft actions, there is no reference to the development of such structures in relation to decision-making processes in family proceedings or in any court proceedings. We would suggest that a draft action should be included under each of these headings relating to the meaningful participation and representation of children and young people in administrative decision-making processes and in court proceedings that affect them.

**4) *The need for an adequately resourced family justice system, which can provide an effective, timely and comprehensive service for children and their families/carers***

**5) *The ownership and provision of court support services to be identified, adequately resourced and for a strategic and regional approach to the planning and funding of child contact centres and family mediation services***

**6) *The central importance of family support services including positive parenting programmes and services for children in need (including mental health services)***

We note and welcome the inclusion of the draft action in relation to the development of a parenting family support strategy under the heading ‘Provision – Family and Community Support’ pursuant to the strategic objective of ensuring that all families can access timely, effective and

8 Page 41

9 Page 41

10 Page 45

appropriate support and that the role of communities in supporting families is recognised, promoted and developed<sup>11</sup>. We also note and welcome the draft action under the heading ‘Provision – Physical, Mental and Emotional Well Being’ of including measures to tackle suicide amongst young people and to increase CAMHS services for children and young people<sup>12</sup>. In respect of mental health services for children and young people we would suggest that urgent action is required in this regard and that actions should be time limited and specific.

There is no specific reference in the document to the family justice system or to the role that family support services can play within this system. We would suggest that points 4) and 5) are specifically included as draft actions on Page 50.

**7) *The Strategy should address the needs of ‘looked after’ children in Northern Ireland with particular emphasis on ensuring the availability of appropriate specialised and differentiated placement options as envisaged in the ‘Children Matter’ report***

We recognise that these issues may be addressed in the draft action under the cross cutting themes of ‘Development of an Overarching Strategy for Children and Young People in Need’<sup>13</sup> but we are of the view that the issues relating to ‘looked after’ children and young people should be broadly defined and have more detailed draft actions outlined in the Strategy document as well.

**8) *The Strategy should address the educational needs of children***

We welcome the inclusion of several draft actions relating to the educational needs of children and young people under ‘Cross Cutting Themes’ and ‘Provision’ but would suggest that this is an area which would merit further associated draft actions relating to special educational needs (implementation of SENDO) suspension and exclusion (implementation of recommendations from current review) ‘looked after’ children and school age mothers.

**9) *The Strategy should address the impact of domestic violence on children***

We very much welcome the specific inclusion of a draft action in this matter on Page 64 under the heading ‘Protection’.

**10) *The need for a comprehensive child protection system and policies***

We welcome the draft actions set out clearly under the heading ‘Protection’ in this matter<sup>14</sup>. We would recommend three additional draft actions in relation to the implementation of any recommendations arising from the

11 Page 50

12 Page 62

13 Page 74

14 Pages 64, 65, 66 and 67

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review of sexual offences legislation in Northern Ireland, the monitoring and management of sex offenders in the community and the development of a system for child death reviews.

**11) *The need for training programmes/information systems on legislative and policy developments/research affecting children and young people which should enable the sharing of information on a multidisciplinary basis***

We welcome the commitment to dissemination of research and information under the heading ‘Provision’<sup>15</sup>. We would suggest that this Section should specifically refer to legislative and policy developments and could also potentially address the need to develop a database of appropriate experts and services available to children and young people in Northern Ireland.

We also welcome the inclusion of a draft action under ‘Rights and Equality’ in relation to core training on the UNCRC<sup>16</sup> and would suggest that this draft action could be extended to include legislation and policy affecting children and young people in Northern Ireland and also implications of the ECHR as incorporated by the Human Rights Act 1998. This should emphasise the importance of multidisciplinary training.

**12) *Availability of information and advice in an accessible format for children and young people and their parents/carers***

We welcome the draft action under the heading ‘Participation’ in relation to making information available for children and young people.

**13) *The need to address the interface between Children Order proceedings and adoption proceedings***

We welcome the draft action to develop an adoption strategy, which should specifically consider this matter.

**14) *The importance of the development of interdisciplinary best practice***

COAC has finalised Best Practice Guidance which is available on the Northern Ireland Court Service website. It is suggested that the development of interdisciplinary best practice guidance could be formulated as a draft action under the Research and Information Section.

**15) *Resources***

It is a matter of some concern to COAC that although it is recognised that many of the draft actions outlined in the draft Strategy for Children and Young People will require additional resources, there are no clear commitments with regard to funding for implementation<sup>17</sup>.

15 Page 58,59

16 Page 40

17 Page 80 Paragraph 7.8.1

## **NCH NI SCOPING STUDY**

In September 2004, representatives of NCH briefed members of COAC about key policy developments in child contact in England & Wales and presented the key findings of a scoping exercise carried out by NCH NI for Western Health and Social Services Board (WHSSB). A summary of these issues is presented below along with some information about NCH family mediation/child contact services.

NCH are the largest single providers of family mediation and support services for children and families experiencing difficulties arising from family breakdown in the UK. We have a reputation for delivering high quality services, central to which is its child focused professional practice including family mediation and support services, direct support services for children, children's information services including the web site **[www.itsnotyourfault.org](http://www.itsnotyourfault.org)** and child contact services which provide a safe environment for contact with the non resident parents in order to assist the re-establishment of the parent-child relationship.

In England & Wales, we work in partnership with the Department of Constitutional Affairs (DCA), the Department for Education and Skills (DfES), the Legal Services Commission, Sure Start, the Children and Young People's Unit (CYPU), Children and Family Court Advisory and Support Service (CAFCASS) and social services.

### **Key Policy Developments in England & Wales**

Vicky Leach (former) NCH advisor, provided a detailed update on key policy developments in England & Wales based on:

- The Government's response to 'Making Contact Work'
- The Green Paper: 'Children's Needs – Parents Responsibilities'
- The establishment of a Family Justice Council
- A Family Resolutions Pilot Project and
- President of Family Divisions direction: 'First Directions; conciliation process and Funding for Child Contact services in England & Wales'.

NCH has since produced a briefing paper entitled 'Stuck in the Middle' which sets out key facts about parental separation and the issues for children in England & Wales and draws on the latest research and official Government statistics. The policy paper seeks to explode some of the myths that abound in this highly complex and emotive policy area. It also tries to respond to other issues such as moving the policy debate forward on the Government's Green Paper on Parental Separation in England & Wales (July 2004) and address the way public debate about separation/contact issues has increased the risk of marginalising children's rights and interests.

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## **The Child Contact Scoping Study in Northern Ireland**

In 2002, WHSSB asked NCH NI to undertake a scoping study to “ascertain the need and feasibility of providing a child contact service across the Western Board area ensuring a strategic fit with Board wide policies and plans”. The three objectives of the scoping study were to:

- Assess and evidence the need for Private Law and/or Public law contact services within the Western Board area
- Assess the feasibility of operating a service across the Board area using existing neutral and accessible venues in line with the NCH model of service delivery and practice standards and
- Assess the ‘strategic fit’ within the current WHSSB, Trust’s policies and strategic aims including children services plans.

The study was conducted by Ross McCrea between September 2002 and January 2003. The main findings include:

### ***Needs Assessment***

- Quantifying need across different settings proved to be a very complex task, because needs arise both in court proceedings and across the family and childcare programmes in Trust areas
- While the findings pointed to gaps in information, they also indicated very high levels of child contact need in Private and Public Law settings across the WHSSB area, reflecting a wider pattern of significant growth in Children Order related business in Northern Ireland in recent years. This is increasing pressure on the courts, support services and health and social services with significant resources being used to meet increasing needs and demands and
- Some areas of child contact need in Private Law settings are associated with difficulties and delays in Children Order cases, with increases in the number and complexity of cases in which disputes over contact arrangements remain in the courts and with social services for relatively long periods of time.

### ***Feasibility Study***

- The feasibility study examined the potential of using a range of local community based provisions as a basis for developing and delivering ‘outreach’ child contact and related family support services across WHSSB, modelled on NCH Good Practice principles and standards
- Around twenty ‘Early Years’ and community premises were visited and checked against key criteria (e.g. in relation to having age appropriate play and child-friendly spaces, separate entrances/exits or the capacity to stagger arrival times to ensure safe hand-over arrangements of children)



- The bulk of premises were judged to be accessible, child-friendly, welcoming and well suited to accommodating children and parents and most levels of child contact need (i.e. requiring low to medium levels of vigilance) with the potential to be available outside normal hours and
- The venues were not well suited to accommodating cases or situations in which high levels of child contact vigilance would be needed (i.e. requiring very close supervision and particular security measures).

### ***Strategic Fit***

- At the regional policy development level, child contact policy and services need to be considered in the Office of the First Minister and Deputy First Minister (OFMDFM) led interdepartmental Strategy for Children & Young People in Northern Ireland and similarly in the DHSSPS Strategy for Children in Need. However, while child contact services need to develop as an aspect of family support and childcare policy they should also be seen as part of a wider set of court support services
- COAC's deliberations about the future of child contact centres in Northern Ireland needs to be integrated into the wider agenda/debate about developing a court support services strategy, which itself needs to incorporate new thinking about the role of court welfare services, workloads in the child care system, family mediation services, separate representation for children, Article 8 contact orders non-compliance issues and working in a multi-disciplinary and child-focused way and
- At local Trust policy level, child contact service services need to configure with Western Board children's services planning and fit within emerging thinking and models underpinning the Family Support Strategy (as Level 2, 3 and 4 type needs and services) and link with the family and childcare 'Thresholds for Intervention' model currently bedding-in in the area.

## **Developing Child Contact Services**

The report included a brief review of the court welfare and social work resources being used to facilitate child contact arrangements in Trust areas and identified the main areas of potential service developments in line with key needs and strategic fit issues i.e. specialist contact centres and delivering Private and Public Law child contact services on an outreach basis, where appropriate. An attempt is made to locate each service option along side the most appropriate level of vigilance.

## **Conclusion**

The 'Making Contact Work' report may be the first serious attempt by Government to look comprehensively at ways of remedying a system that is acknowledged to be failing parents and children. While similar dilemmas prevail in Northern Ireland, we also have different structures, policies and levels of support services to deal with.



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NCH NI hopes the scoping study will make a useful contribution to the debate about developing good child contact policy/practice and delivering much needed services across Northern Ireland. A critical aspect for COAC and others in trying to achieve this goal must be to ensure a sound legislative, regulatory policy is in place together with the strategic framework to support the development and range of child contact/family mediation services. Adequate resources are also needed to ensure the right infrastructure to support the range of quality family mediation, child contact and other forms of family support services across Northern Ireland.

## **RELATE NI: RELATIONSHIP BREAKDOWN**

The following presentation was made to the Committee in June 2004 by Gerard Clark, Chief Executive of Relate NI:

Relate NI, the main relationship-counselling agency in Northern Ireland, provides a range of services to individuals, couples and young people as well as educational and training programmes.

Traditionally, the family provides a secure setting for each of its members. One of its functions is to protect the young and to prepare them for the outside world i.e. the larger 'family' we all have to face. Any strategy for families, marriage and relationship support must take into account the changing structure of relationships and families today.

In research undertaken by One Plus One, Marriage and Partnership Research, on behalf of the Lord Chancellor's Department (Department for Constitutional Affairs) the following findings were noted:

- Expectations of marriage have been revised; there has been a shift on emphasis from marriage as an institution to marriage as a relationship
- Theories outlining the source of attitude change identify the progress of individualism as the most influential force in changing attitudes towards marital and other sexual unions
- The growth in cohabitation and of approving attitudes towards it do not necessarily imply a threat to marriage because cohabitation is widely seen as a precursor of marriage
- The high premium placed on the relationship element of marriage means that there is more pressure to leave a marriage if it does not live up to expectations and less of a stigma attached to doing so
- Changes to social norms also allow alternatives to marriage i.e. living as single, premarital cohabitation and non-commitment sexual relationships and
- The progress of individualism has contributed to the drive for greater equality for women. Although a positive outcome in itself, couples are experiencing difficulties in negotiating new roles and responsibilities where traditional roles have been disregarded.

In addition to the decrease in the marriage rate, there has also been an increase in the rate of marital breakdown. Based on current trends 4 in 10 marriages will ultimately end in divorce. In Northern Ireland, there were 2,165 divorces and 2,034 children under the age of 16 affected by divorce in 2002. This trend is causing concern.

By the year 2010, the Policies Studies Institute has predicted that divorce and re-marriage will be the norm. It is estimated that approximately one half of all divorced parents remarry or form new relationships and that one half of those new relationships also end in divorce. The long-term implications of these quite dramatic changes in demographic and social trends have yet to be fully explored and integrated into social, legal and economic policies.

The quality of the parent's relationship is central to their children's well being but is not the only factor. There is a significant correlation between parental experiences and the outcomes experienced by children once they reach adulthood. In general, children brought up by birth parents experience the lowest levels of conflict and early difficulty. Children brought up by two birth parents until the age of 16 have higher levels of life satisfaction and more family support, fewer psychological problems and less conflict at every age.

Divorce is not a single event but a process of change that can extend over long periods of time, requiring adjustment within the family system. Relate NI helps couples at all stages of this process. Counselling can have a preventative role in facilitating couples to address problems as they arise and make changes to maintain and sustain the relationship before it gets to the point of separation. It also can help couples minimise the damage when they part, particularly where children are involved.

## Costs of Marital Breakdown

**The Hart Report states:**

*"The rising rate of marital breakdown and divorce is a matter of deep concern. It is likely that public spending, caused by family breakdown, is running at about £5 billion a year. There are also indirect costs, such as those arising from the damage to children's education, from criminal behaviour and from the impact of breakdown on the use of the housing stock. The human misery resulting from marital conflict and breakdown is immense. For example, "divorced men attempt suicide five times more often than married men, and women three times more often."'<sup>18</sup>*

There is a need to try to help couples reduce conflict and avoid divorce, but also to help them part in a civilised way when this becomes unavoidable.

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## **Impact on Children**

When a couple separate, it is not just they who have to cope with the emotional upheaval, but the children too can suffer and their feelings may get lost in the heat of separation. For example:

- Every day approximately 650 children see their parents separate or divorce
- Over 2.5 million children are now growing up as part of a stepfamily
- Two-thirds of divorcing couples have dependent children younger than 16 years of age and
- Between 25,000 and 30,000 children per year are going through the divorce or separation of a parent for the second time.

Adults caught up in the distress of separation are often unable to hear their children's distress. Parents can be helped to address these issues in separation counselling while children may be helped in their own counselling.

The Hart Report also states:

“Despite the increasing availability of counselling services, an apt description of the present position would be "too little and too late". The majority of couples whose marriage is in difficulty or ends in divorce do not use such services. And when they do, it is usually when the difficulties have become extreme and the marriage is near to or has reached breakdown. The demand for marriage support will continue to grow and it is clearly in the public interest that it should be met.”<sup>1</sup>

Experience shows that couples and individuals are reluctant to go to social services when they are experiencing family difficulties. They will much more willingly go to voluntary agencies such as Relate NI.

## **Conclusions**

The foregoing statistics and the outcome of the various Government reports would indicate that:

- Strong families are essential to bringing up children and to create a decent society
- The nature of couple relationships is changing and presenting problems, particularly for the care and development of children
- Relationship breakdown is increasing and the impact on children is a cause for concern
- Relationship breakdown results in enormous costs to the taxpayer
- The introduction of appropriate interventions such as relationship-counselling, education and training, mediation and counselling for young people should be a priority
- The strengths of the voluntary organisations such as Relate NI, should be recognised and
- Funding for additional services should be provided.

COAC must always act as a living instrument and adjust to continuing developments within the family justice system. Although our remit is confined to The Children (NI) Order 1995, changes are clearly on the horizon in the legislative field. In England there have been amendments to the definition of harm in The Children Act 1989, the drawing of the court's attention to the impact on children of violence within the home and new powers are arriving to deal with breach of non-molestation orders.

A major piece of legislation in the form of The Adoption and Children Act 2002 will be introduced in England & Wales in the autumn of this year. The Gender Recognition Act 2004 together with The Civil Partnership Act 2004 will provide a wholly new legal framework for those in same-sex relationships engaged in the family courts. In Northern Ireland, the DHSSPS is currently producing a Strategy for Children & Young People which will probably be out for consultation in the autumn of 2005. Inter alia, the key focus will be on family policy services and care for children and the elements underpinning that service.

New proposals for adoption and amendments to the Children Order, The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 and The Children (Leaving Care) Act (Northern Ireland) 2002 are under consideration. International developments are imposing their influence more and more in courts throughout the UK and in Northern Ireland in particular. A new EC Council Regulation, replacing Brussels II and governing jurisdiction not only in matrimonial matters but also in children's cases will inevitably impact on the working and structure of the courts in Northern Ireland in the fullness of time.

These are all matters that we must adjust to. Not only must we ensure that comparable legislation refines any of the wrinkles that emerge out of the legislation in England & Wales, but also we should be analysing the appropriateness of the finer details and principles of such legislation as applicable to Northern Ireland. These changes will require a rigorous scrutiny and our earnest endeavours in the forthcoming months and indeed years. In addition, we must address the provision or lack of provision of adequate contact centres, child adolescent psychiatric services and secure accommodation in the province. We must ensure that such services are at least equivalent to those in the rest of the UK and that adequate finance and personnel are being invested here.

At the forefront of our consideration must remain those who form the cornerstone of our work. These are vulnerable children whose voice must increasingly be heard, parents unable to come to terms with the breakdown

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of family and child relationships, abused, bewildered and frightened children suffering at the hands of dysfunctional parents and parents who quite properly have found a new enlightenment as to the rights under ECHR.

The underlying purpose of this Committee is to ensure that we provide a system that operates the Children Order in an appropriate, humane and proportionate way. The multi-disciplinary approach of COAC emphasises that the courts are only part of the solution and that the wide range of skills contained in the family justice system must be fully implemented in order to provide remedies and solutions both inside and more particularly, outside the court system.

The need for this Committee to highlight the imperative of multi-disciplinary co-operation gathers momentum with each passing year and we have no doubt that the forthcoming year will be one of the most challenging that we have met. To that end the new sub-committees and the work that we do must rise to the ever increasing challenge and we look forward enormously to the fruits of our work in the forthcoming twelve months.

## Appendix 1

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### The Membership of The Committee (1st April 2004 to 31st March 2005)

#### Chairman

Mr Justice Gillen	High Court Judge (Family Division) High Court of Justice in Northern Ireland
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#### Members

His Honour Judge Markey QC	County Court Judge and Family Judge of the Belfast Family Care Centre
Her Honour Judge Philpott QC	Recorder of Londonderry and Family Judge of the Londonderry Care Centre
His Honour Judge McFarland	County Court Judge and Family Judge of the Dungannon Care Centre
Mr Mervyn Bates RM	Representing His Honour Judge McKay QC County Court Judge and Family Judge of the Craigavon Care Centre
Mr John Meehan RM	Resident Magistrate
Mr Ronnie Williamson	Executive Director of the Northern Ireland Guardian Ad Litem Agency
Mr Norman Humes	Chairman of the Northern Ireland Youth & Family Courts Association
Mr Fergal Bradley	Head of Child Care Policy Directorate, DHSSPS
Mr Paul Martin	Chief Inspector, Social Services Inspectorate, DHSSPS

*Appendix 1*

Mrs Catherine Dixon	Solicitor
Mr Cecil Worthington	Representative of the Association of Directors of Health & Social Services Trusts
Mr Hugh Connor <i>(Mr Dominic Burke resigned wef 240205)</i>	Director of Social Services, Eastern Health & Social Services Board
Mrs Gillian McGaughey	Barrister at Law
Miss Hilary Wells	Assistant Director, Directorate of Legal Services, Central Services Agency
Miss Brenda Donnelly	Official Solicitor to the Supreme Court
Mrs Jacqui Durkin	Head of Business Support Group, NI Court Service
Ms Tara Caul	Children in Northern Ireland (Formerly Childcare (NI))
Mr Michael Williamson (DHSSPS)}	Secretariat
Mr Austin Harper (NI Court Service)}	

## Appendix 2

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### Statistics

#### Commentary

The statistics that form the basis of the tables and figures in this appendix are collected as a census of the Children Order business in all the courts in Northern Ireland. Except where otherwise indicated, all figures and tables cover the financial year 2004/05. With the exception of those figures contained in Tables 3 and 4, which are case based, figures relate to individual applications. There may be more than one application per child and more than one child per case. Where Figures relate to 2000/01 and subsequent years, the period covered extends from April to March.

#### Wardship Actions

At the time of the introduction of the Children Order in November 1996, a marked decline in the number of wardship actions made in the High Court was observed reflecting the restrictions placed on such applications by the Children Order. Since the introduction of the Order, wardship actions have remained at a consistently low level with no significant increase observed between 2000 and 2005 (See both Table 1 and Figure 1).

#### Applications and Disposals

Table 2 shows the number of applications lodged and disposed of in all court tiers for 2004/05. Applications lodged outnumbered disposals causing an increasing number of outstanding applications. Figure 2 shows the number of applications lodged and disposed of each year since 2000.

During 2004/05, 15% of applications lodged concerned Public Law and 85% concerned Private Law. In terms of disposals, 14% of applications disposed of concerned Public Law and 86% concerned Private Law (See Figure 3).

Care cases accounted for the majority of Public Law disposals (see Figure 6a) where the percentage decreased from 59% in 2003/04 to 47% in 2004/05. The most common types of order made in Private Law were contact (53%) and residence (31%) (See Figure 6b).



## **Transfers**

Table 3 shows the number of cases transferred and the reasons for transfer quoted. More than one reason may be given for transfer in each case. The most numerous reason given for transfers to the family care centres was complexity (57% in 2003/04 and 58% in 2004/05) while for transfers to the High Court the main reason was also complexity (44% in 2004/05).

## **Disposal Times**

Table 4 and Figure 5 show the relative disposal times for both Public Law and Private Law cases in each court tier for 2004/05. In the family proceedings courts, average disposal times were 24 weeks for Public Law and 25 weeks for Private Law cases. In the care centres, they were 36 weeks for Public Law cases and 41 weeks for Private Law cases. Public Law cases in the High Court took 65 weeks and Private Law cases took 62 weeks. Lodgment to disposal times for Public Law and Private Law cases have increased between 2003/04 and 2004/05 in all court tiers. It should be noted that because of the small numbers at the care centre tier, comparatively few long cases can substantially affect the average time taken to dispose of cases.

## **Disposal Types**

Table 5 shows the distribution of the different types of disposal made for each year. Orders made accounted for 65% of all disposals in 2004/05 (67% in 2003/04), 15% resulted in an order of 'no order' in 2004/05 as compared with 11% in 2003/04 while 16% of the applications were withdrawn (15% in 2003/04) and 4% were refused (6% in 2003/04).

In 2003/04, 9,591 interim orders were made. The number of interim orders decreased by 6% to 9,006 in 2004/05. These were made up primarily of contact, residence and care orders.

## **Applicants and Respondents**

Figure 7 shows the proportions of applicant and respondent types involved in disposed of cases for the period. The mother was the applicant in 32% of cases (father 48%, grandparent 4%). Health Boards accounted for 11% of applicants and all others for 5%. The father was the respondent in 32% of cases, the mother in 60% and grandparents accounted for 1%.

## **Age of Children**

Table 6 shows the distribution of children's ages. Just over one third (35%) of children involved in the cases were within the 0-4 years old category (Figure 8).

## Annual Comparisons

To provide a broad picture of yearly trends since the commencement of the Children Order, Figures 9(a), 9(b) and 9(c) illustrate the number of applications lodged and disposed of in each of the court tiers. Between 2003/04 and 2004/05 the number of applications lodged decreased by 10%. There was a 9% decrease in the number of disposals between 2003/04 and 2004/05.

Figure 10 presents the number of orders and disposals for 2000/01 to 2004/05. Parental responsibility disposals increased by 16% between 2003/04 and 2004/05. Contact (permission) increased by 11% between 2003/04 and 2004/05. The number of applications for residence orders disposed of increased by 6% between 2003/04 and 2004/05 and care cases disposed of decreased by 23 % between 2003/04 and 2004/05.

**Table 1**  
Wardship Actions

Wardship Actions	00/01	01/02	02/03	03/04	04/05
Non Emergency	0	4	9	2	2
Immediate Provision	8	7	13	15	15
Jurisdiction	16	8	1	0	2

**Table 2**  
Applications and Disposals

**01/04/04 - 31/03/05**

Applications	High Court	County Court		Magistrates' Court		Total
	High Court	Care Centre	Other	FPC	Other	
Public Law	66	97	1	694	10	868
Private Law	120	154	7	4,748	-	5,029
<b>Total</b>	<b>186</b>	<b>251</b>	<b>8</b>	<b>5,442</b>	<b>10</b>	<b>5,897</b>

Disposals	High Court	County Court		Magistrates' Court		Total
	High Court	Care Centre	Other	FPC	Other	
Public Law	122	139	1	509	7	778
Private Law	152	189	7	4,498	-	4,846
<b>Total</b>	<b>274</b>	<b>328</b>	<b>8</b>	<b>5,007</b>	<b>7</b>	<b>5,624</b>

**Table 3**  
Transfer of Business (Reasons)

**01/04/04 - 31/03/05**

To	Convenience	Urgency	Gravity	Complexity	Consolidation	Other	Total Reasons	Number of Cases <sup>[1]</sup> Transferred
<i>High Court</i>	-	2	2	19	13	7	43	41
<i>County Ct.</i>								
Belfast	-	1	-	26	4	10	41	41
Craigavon	-	1	5	15	1	4	26	21
Dungannon	3	1	-	1	1	-	6	6
Londonderry	-	-	-	9	3	3	15	15
<i>Magistrates Ct.</i>								
Ards	-	-	-	-	-	-	-	-
Ballymena	-	-	-	-	-	1	1	1
Belfast	-	-	-	2	2	2	6	6
Craigavon	-	-	-	-	-	1	1	1
Dungannon	-	-	-	-	-	1	1	1
Londonderry	-	-	-	-	-	-	-	-
Newry	-	-	-	-	1	-	1	1
Omagh	-	-	-	-	-	1	1	1
<b>Total</b>	<b>3</b>	<b>5</b>	<b>7</b>	<b>72</b>	<b>25</b>	<b>30</b>	<b>142</b>	<b>135</b>

<sup>[1]</sup> Cases may have more than one application.

**Table 4**  
Disposal Times

**01/04/04 - 31/03/05**

Lodged to final hearing times (in weeks) for cases entered in the designated courts <sup>[1]</sup>				
	High Court	Care Centre	Family Proceedings Court	Total
Public Law	65	36	26	29
Private Law	62	41	25	26

<sup>[1]</sup> All cases include time taken at first court if transferred

**Table 5**  
**Orders and Disposals**

**01/04/04 - 31/03/05**

Business	Order Made	No Order	Refused	Withdrawn	Total	Interim Order <sup>[1]</sup>
Parental Responsibility	256	80	25	77	438	55
Contact: Permission	1,689	370	125	353	2,537	3,505
Contact: Refusal	56	18	25	15	114	49
Residence	970	252	421	255	1,519	955
Prohibited Steps	85	22	11	71	189	184
Specific Issues	66	30	3	27	126	10
Care	274	40	4	25	343	3,686
Supervision	26	7	-	2	35	96
Education Supervision	10	9	-	4	23	6
Child Assessment	-	1	-	-	1	-
Emergency Protection	20	3	-	-	23	4
Extension of EPO	5	1	-	-	6	11
Appointment of Guardian	83	12	1	3	99	8
Contribution & Other Financial	5	1	-	3	9	2
Secure Accommodation	22	8	1	14	45	112
Article 53 Contact	32	9	5	9	55	170
Family Assistance	10	-	-	2	12	78
Recovery	6	-	-	-	6	17
Non-molestation	2	-	-	6	8	37
Other Orders, Applications	67	17	7	16	107	14
Occupation Articles	1	-	-	-	1	4
Article 56	-	-	-	2	2	3
Exclusion Requirement	1	-	-	-	1	-
<b>Total</b>	<b>3,686</b>	<b>880</b>	<b>249</b>	<b>884</b>	<b>5,699</b>	<b>9,006</b>

<sup>[1]</sup> Interim Orders are taken from court sittings returns, application disposals are taken from final disposal forms. The figures do not necessarily refer to the number of cases.

**Table 6**  
**Children Subject to Applications**

Age and Gender of children involved <sup>[1]</sup> 01/04/04 - 31/03/05					
	Age Range				Number of children in respect of whom orders have been made
Sex	0-4	5-8	9-12	13-16	
Male	688	633	459	283	2,063
Female	650	580	396	256	1,882
Total <sup>[2]</sup>	1,409	1,214	858	539	4,026

<sup>[1]</sup> Includes children not subject to an application disposed of

<sup>[2]</sup> Includes 81 children whose gender is unrecorded

**Table 7**  
**Business Volume - Care Centres and Related Courts**

**Applications - 01/04/04 - 31/03/05**

	Public	Private	Total
<b>Belfast</b>			
<i>Care Centre</i>	21	46	67
<i>County Court</i>	-	-	-
<i>Family Proceedings Court</i>	374	2,514	2,888
<i>Magistrates' Court</i>	-	-	-
<b>Total</b>	<b>395</b>	<b>2,560</b>	<b>2,955</b>
<b>Craigavon</b>			
<i>Care Centre</i>	25	24	49
<i>County Court</i>	1	7	8
<i>Family Proceedings Court</i>	160	1,327	1,487
<i>Magistrates' Court</i>	10	-	10
<b>Total</b>	<b>196</b>	<b>1,358</b>	<b>1,554</b>
<b>Dungannon</b>			
<i>Care Centre</i>	14	19	33
<i>County Court</i>	-	-	-
<i>Family Proceedings Court</i>	104	433	537
<i>Magistrates' Court</i>	-	-	-
<b>Total</b>	<b>118</b>	<b>452</b>	<b>570</b>
<b>Londonderry</b>			
<i>Care Centre</i>	37	65	102
<i>County Court</i>	-	-	-
<i>Family Proceedings Court</i>	57	474	531
<i>Magistrates' Court</i>	-	-	-
<b>Total</b>	<b>94</b>	<b>539</b>	<b>633</b>

Note: Figures for applications to and disposals in family proceedings courts may include more than one venue within a court division.

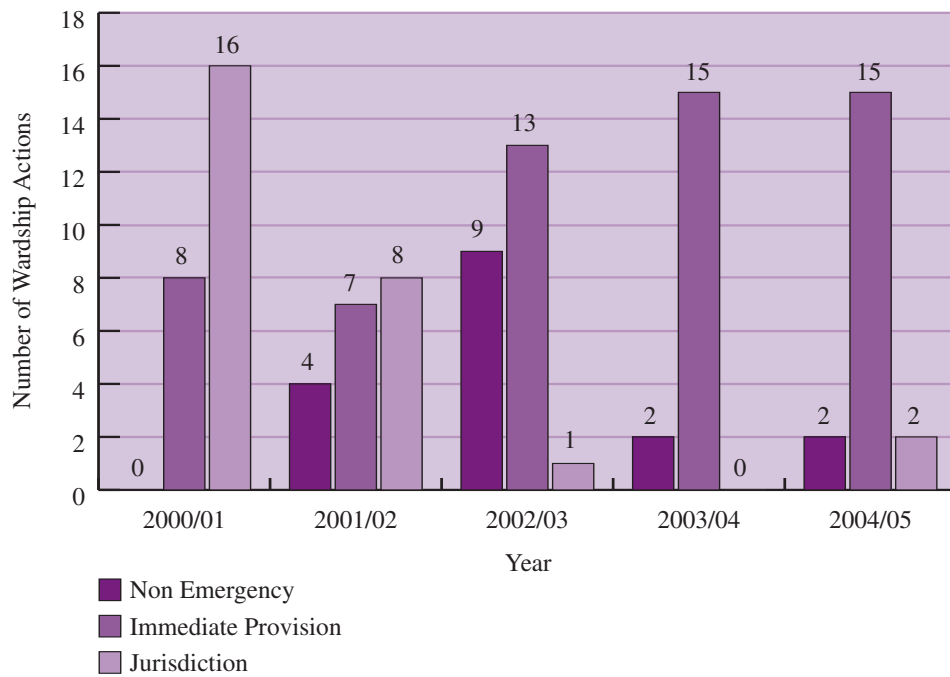
**Table 8**  
Business Volume - Care Centres and Related Courts

**Disposals - 01/04/04 - 31/03/05**

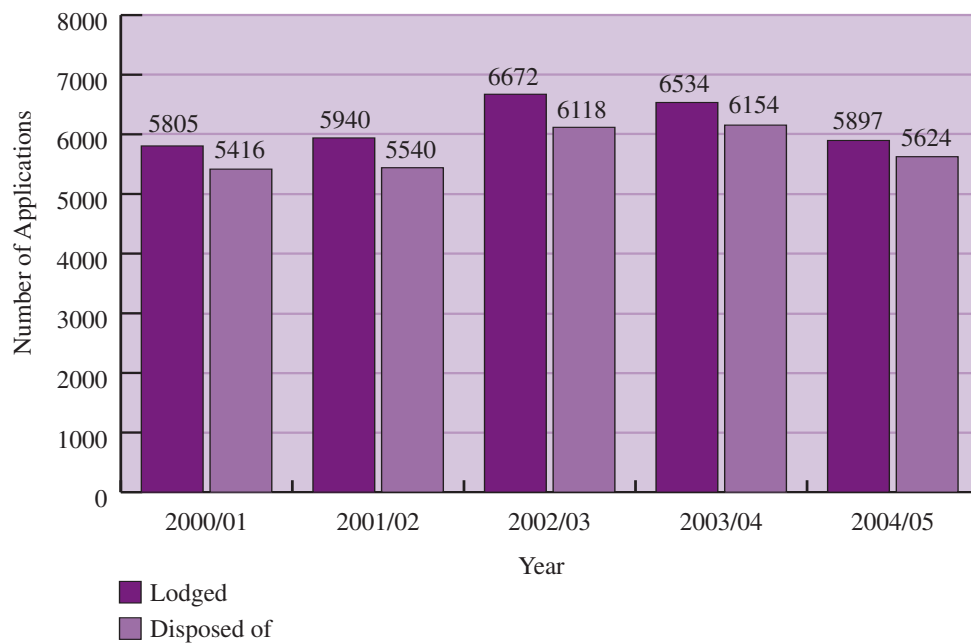
	Public	Private	Total
<b>Belfast</b>			
<i>Care Centre</i>	39	85	124
<i>County Court</i>	-	-	-
<i>Family Proceedings Court</i>	273	2,429	2,702
<i>Magistrates' Court</i>	-	-	-
<b>Total</b>	<b>312</b>	<b>2,514</b>	<b>2,826</b>
<b>Craigavon</b>			
<i>Care Centre</i>	44	23	67
<i>County Court</i>	1	7	8
<i>Family Proceedings Court</i>	123	1,130	1,253
<i>Magistrates' Court</i>	7	-	7
<b>Total</b>	<b>175</b>	<b>1,160</b>	<b>1,335</b>
<b>Dungannon</b>			
<i>Care Centre</i>	4	14	18
<i>County Court</i>	-	-	-
<i>Family Proceedings Court</i>	52	560	612
<i>Magistrates' Court</i>	-	-	-
<b>Total</b>	<b>56</b>	<b>574</b>	<b>630</b>
<b>Londonderry</b>			
<i>Care Centre</i>	52	67	119
<i>County Court</i>	-	-	-
<i>Family Proceedings Court</i>	38	379	417
<i>Magistrates' Court</i>	-	-	-
<b>Total</b>	<b>90</b>	<b>446</b>	<b>536</b>

Note: Figures for applications to and disposals in family proceedings courts may include more than one venue within a court division.

**Figure 1**  
Wardship Actions (April 2000 - March 2005)

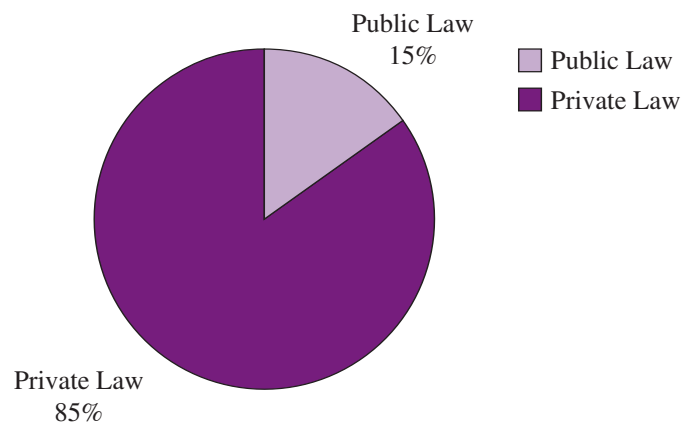


**Figure 2**  
Applications Lodged and Disposed of  
(April 2000 - March 2005)

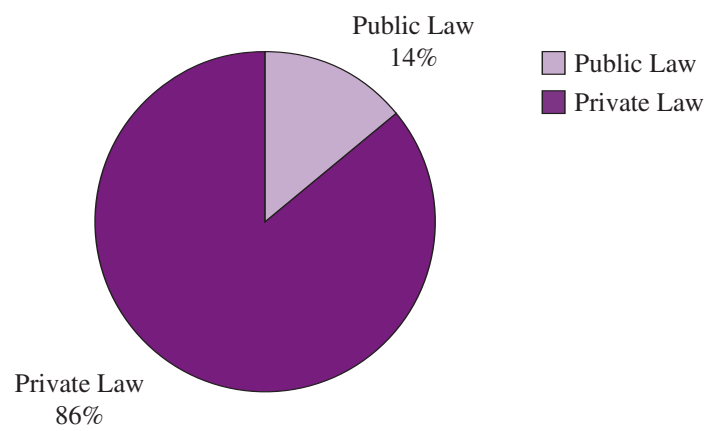




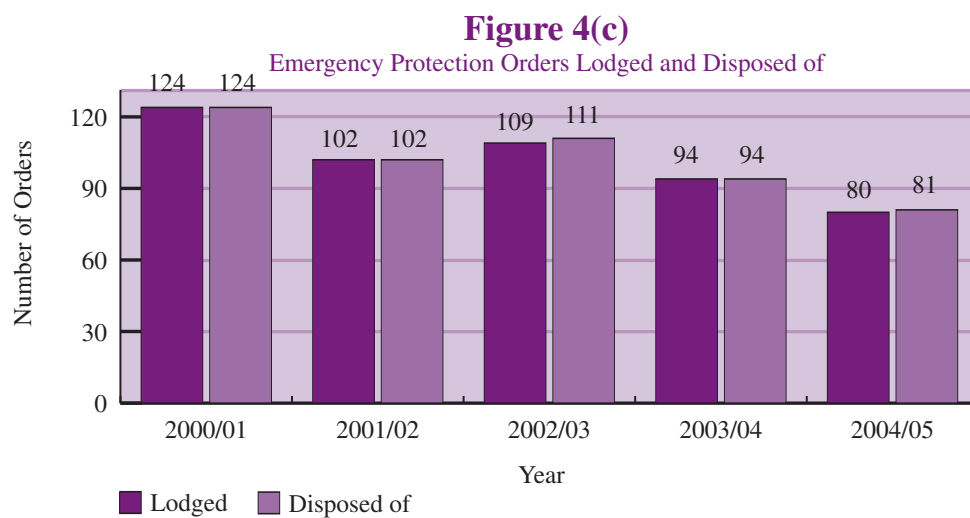
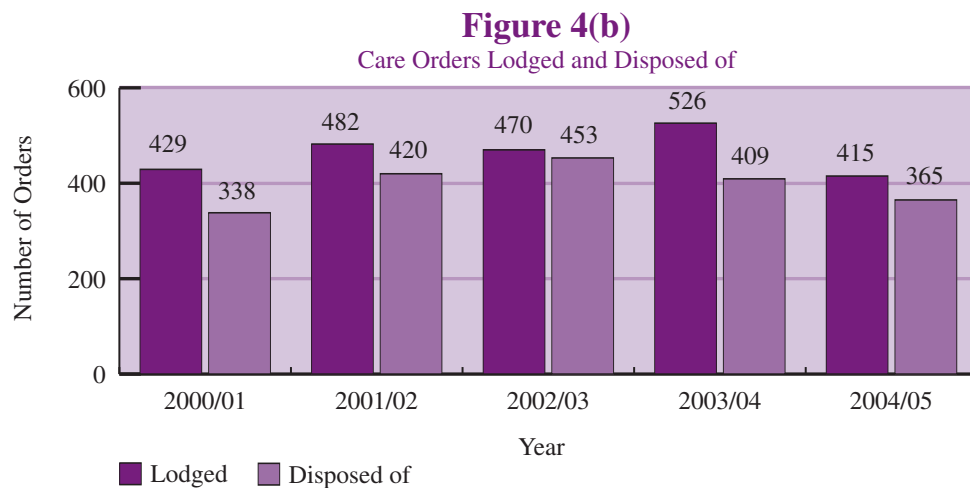
**Figure 3 (a)**  
Applications Lodged (2004/05)



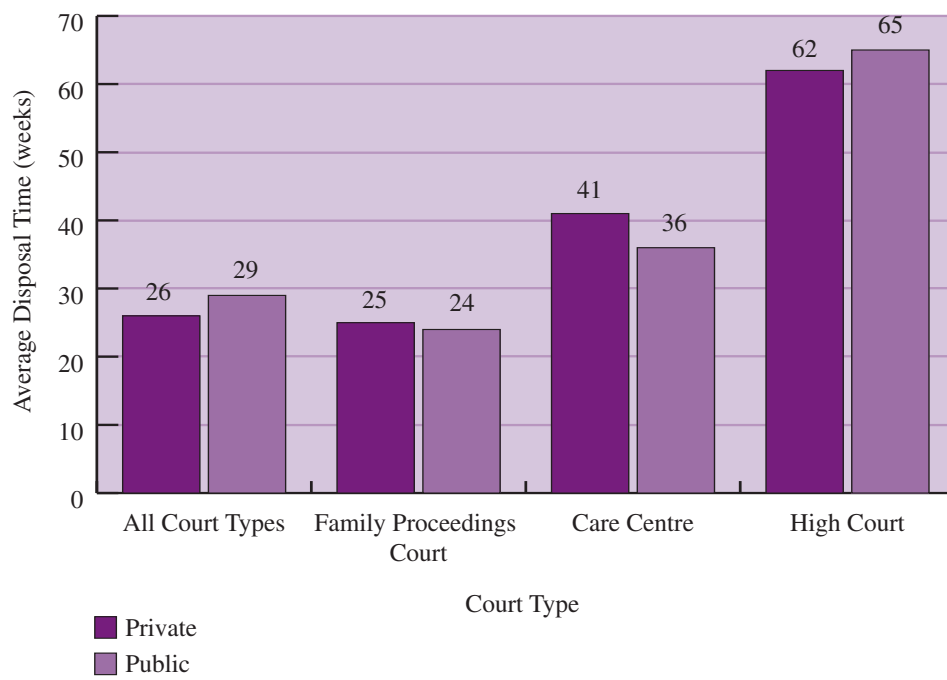
**Figure 3 (b)**  
Applications Disposed of (2004/05)



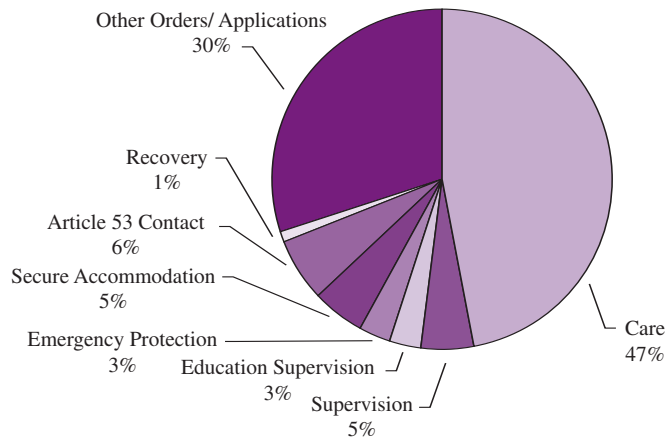
**Figure 4(a)**  
Children Order Public Law Applications Lodged and  
Disposed of (April 2000 - March 2005)



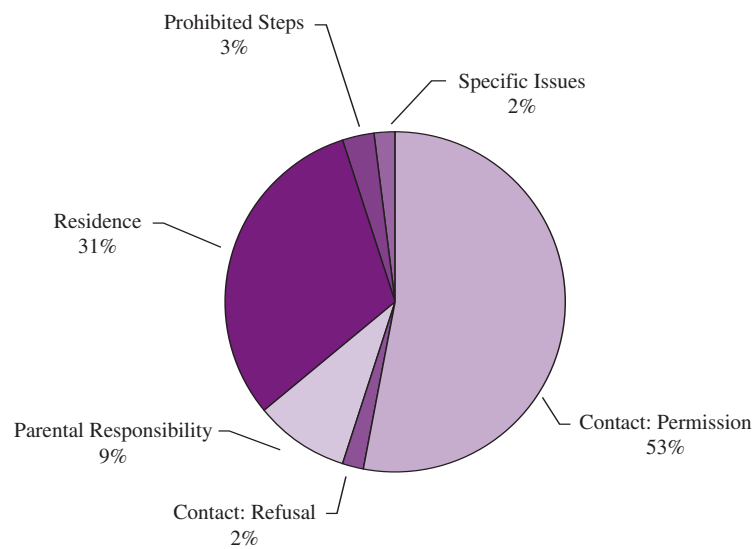
**Figure 5**  
Disposal Time in Weeks (April 2004 - March 2005)



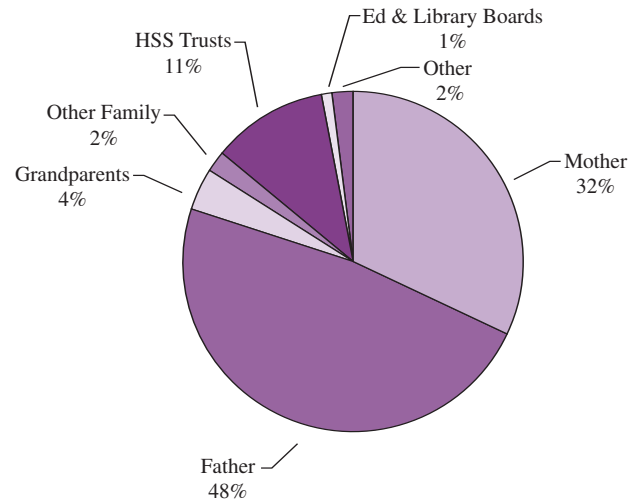
**Figure 6(a)**  
Public Law Orders Made (2004/05)



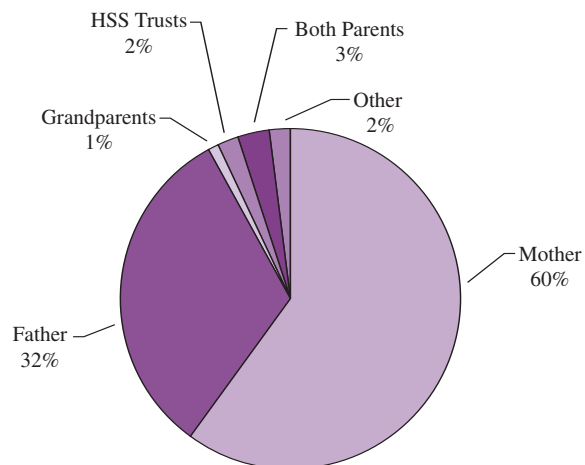
**Figure 6(b)**  
Private Law Orders Made (2004/05)



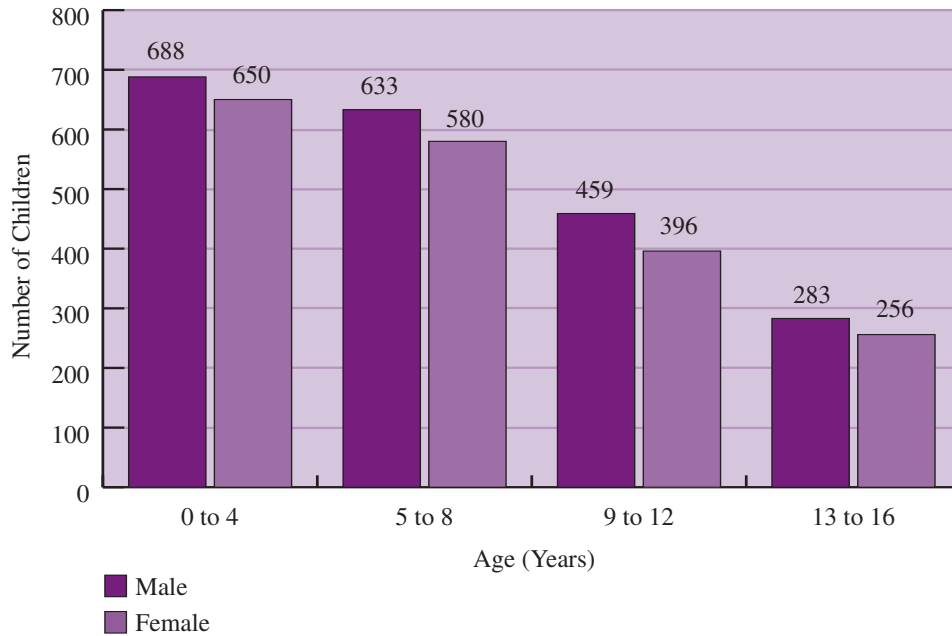
**Figure 7(a)**  
Applicants (April 2004 - March 2005)



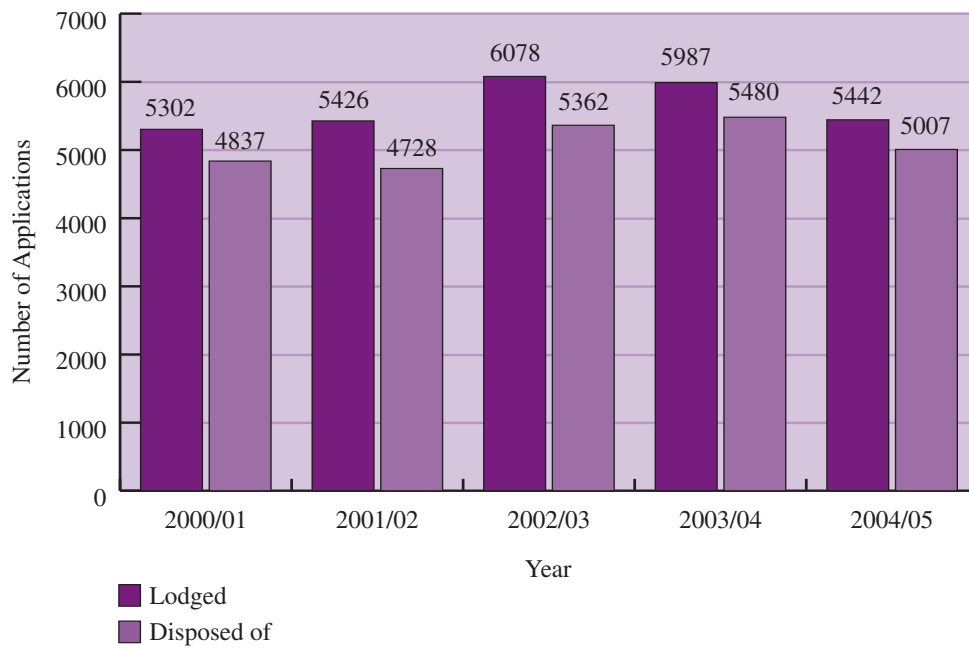
**Figure 7 (b)**  
Respondents (April 2004 - March 2005)



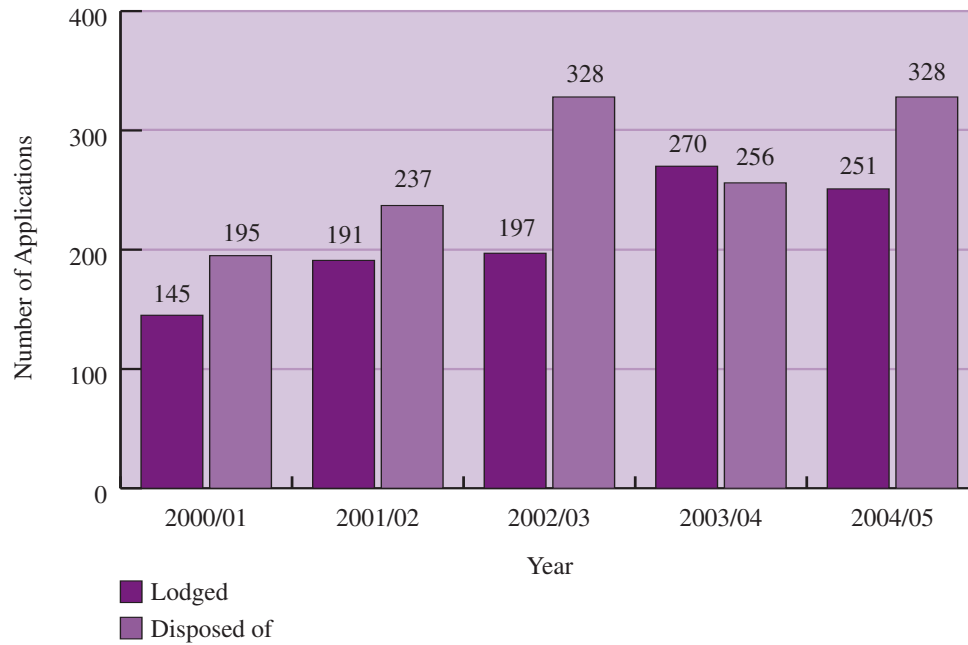
**Figure 8**  
Age and Gender of Children Involved  
(April 2004 - March 2005)



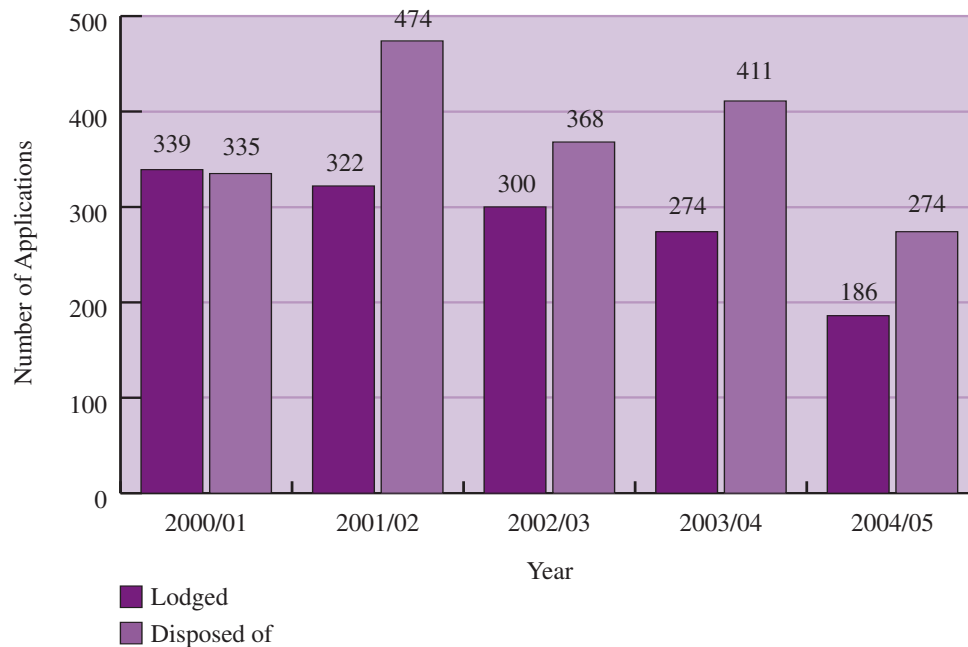
**Figure 9(a)**  
Applications Lodged & Disposed of in Family  
Proceedings Court (April 2004 - March 2005)



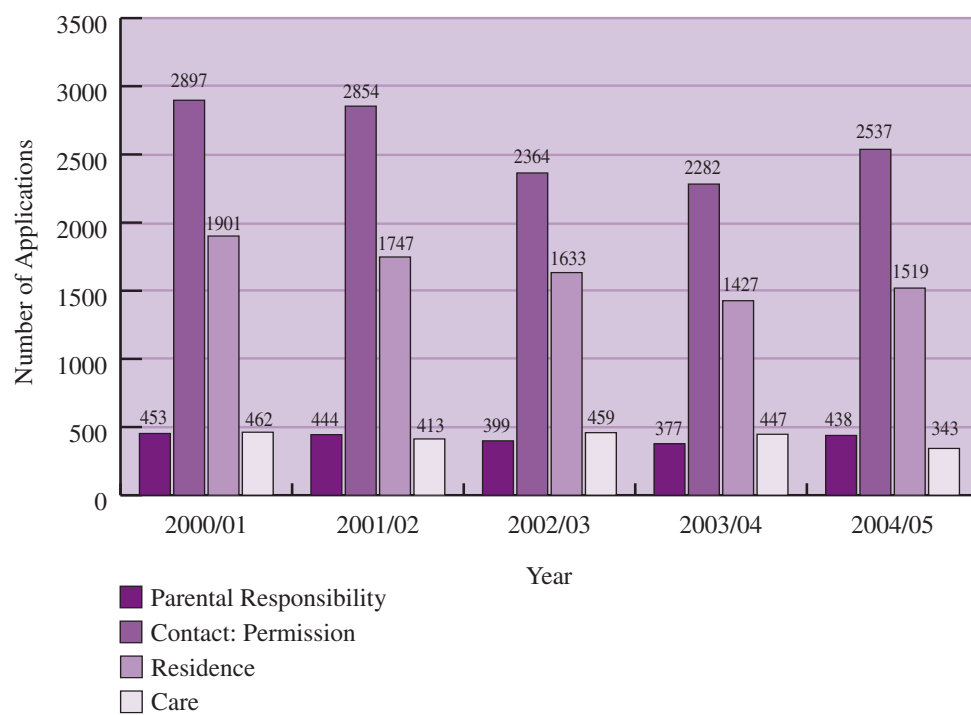
**Figure 9(b)**  
Applications Lodged & Disposed of in Family Care Centre  
(April 2004 - March 2005)



**Figure 9(c)**  
Applications Lodged & Disposed of in the High Court  
(April 2004 - March 2005)



**Figure 10**  
**Orders & Disposals (April 2004 - March 2005)**





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