



Ministry of Justice and
Department for Education

**The Government Response to
the Family Justice Review:
A system with children and
families at its heart**

Presented to Parliament
by the Secretary of State for Justice and the Secretary of State for Education
by Command of Her Majesty

February 2012

© Crown copyright 2012

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at **www.education.gov/publications**

This publication is available for download at www.official-documents.gov.uk

ISBN: 9780101827324

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID P002475320 02/12

Printed on paper containing 75% recycled fibre content minimum.

Contents

A: Joint Foreword	3
B: The structure of this report	5
C: The Reform Story – an undeniable case for change	6
Context – a system under strain	6
We are all responsible for making change happen	7
The key principles of reform	8
D: A system with children’s needs at its heart	10
The UNCRC	10
What we will do	11
E: Changes to public law	12
What we will do	13
The role of experts	13
Working with local authorities	14
Focus on adoption	16
Tackling delay	16
F: Changes to private law	18
What we will do	18
Support across public services	19
Finding solutions outside the courts	19
Support for separating and separated parents	20
The importance of grandparents	22
Where cases do need to reach courts	22
Divorce	23
G: Developing the Family Justice Service and system leadership	25
What we will do	25
What this means for Cafcass and Cafcass Cymru	27

- 2 The Government Response to the Family Justice Review:
A system with children and families at its heart

H: The judiciary and wider workforce	28
What we will do	28
Using a range of locations	29
A picture of wider reforms – The Munro Review	30
I: The impacts of reform	32
J: What's next...	33
K: Annex 1 – Detailed response to each recommendation	34
L: Annex 2 – Developing the evidence base on family justice: update on progress	85
M: Annex 3 – Impact Assessments	87
N: Annex 4 – Key references and useful supporting documents	88

A: Joint Ministerial Foreword



The family justice system makes life-changing decisions which affect many thousands of couples, children and families every year. But, as the Family Justice Review has pointed out, it is too often characterised by delay, expense, bureaucracy and lack of trust. It is absolutely right that the public should expect more.



For this reason, we are very pleased to be able to respond so positively to the Family Justice Review. The reform of family justice and child protection is a critical priority for Government. We are grateful to all those who work so hard within the current system, in the face of real pressure. We want to join with them to improve the system and to listen and act on the things that they have said. The messages here, and recommendations we make, apply to every bit of the system – all must play their part.

Delay blights lives. It is a troubling statistic that every 2 month delay for a young child represents 1% of their whole childhood. Yet the average care case now takes 55 weeks to complete – and many cases take a good deal longer. These are some of the most vulnerable children in our society. It is absolutely unacceptable that delay is common in so many areas.

Problems within private family law are also troubling. Too often, divorcing couples end up arguing over deeply sensitive and emotional issues in the adversarial environment of the courtroom, when they might have resolved their disputes more quickly, simply and consensually outside it. And when judges do hand down judgments – particularly decisions which determine how separated parents share responsibility for their children – compliance is too low and enforcement ineffective.

Change is essential to address these concerns. We support the Review's call for radical reform which cuts out unnecessary delay and increases use and availability of mediation. We also need to improve couples' compliance with decisions. This means greater encouragement of early, consensual parental plans which can survive relationship breakdown. It means improving the enforcement options available where one parent fails to comply with decisions made either through mediation or by a judge. And it means going further than the previous recommendations and making it clearer that there is no in-built legal bias towards either the father or the mother. We believe that where there are no significant welfare issues, we should reinforce the principle through law, that it is in the best interests of the child to have a full and continuing relationship with both parents. We are aware of the debate on this issue, and the arguments are finely balanced. However, if we are to improve the effectiveness of private family law, we firmly believe that families' confidence in its fairness must be strengthened.

Together our proposals on both public and private law complement the Munro Review's recommendations on child protection, Martin Narey's work on adoption, legal aid and Civil Justice reforms which seek to ensure disputes are resolved early, speedily and more

4 The Government Response to the Family Justice Review: *A system with children and families at its heart*

affordably, and the wider efforts we are making to support families. These policies demonstrate Government's determination to deliver an approach to family justice which puts society's needs ahead of bureaucracy.

The reforms we propose will result in change right across the system. In divorce and contact cases, we hope better information, mediation and a clear message on shared parenting will reduce conflict and delay, and enable lasting arrangements to be made. For care proceedings, our changes will radically speed up the system, and help, rather than hinder, the committed professionals within the system who strive to focus on the needs of the child. We are in no doubt that Ministerial leadership is absolutely essential to deliver a step change in public law cases – we will steer this work from the front with personal leadership and drive.

It would not be true to say that now the work begins – we have already done much since the Family Justice Review was published. HM Courts and Tribunals Service (HMCTS) and the judiciary have created a Family Business Authority which focuses on delivering reform to improve family court performance, while the President of the Family Division has appointed Mr Justice Ryder to the role of Judge in Charge of Modernisation. We have already committed to set a 6 month limit on the duration of public law cases, announced a two-third increase in funding for mediation in private law cases, and are publishing the data which will help drive system improvement. We have also begun plans to establish a Family Justice Board. At the earliest opportunity we will pursue the range of changes to legislation which we set out here so that the right frameworks are in place to drive improvement.

We are aware that this response is being published against a backdrop of reforms to legal aid. These reforms will have an impact on family justice. However, we believe that the legal aid reforms go in the same direction as, and support the aims of, our proposed changes to family justice, such as enabling couples to resolve their disputes without needing to go to court, using alternatives to court like mediation and simplifying proceedings if cases do go to court.

This formal response is the start of the new phase of this work. It marks the beginning of a culture change, one that is particularly critical for faster resolution of care cases. We do not propose all the immediate answers here. The changes we pursue will not happen overnight – we must be clear about that from the start to maintain momentum. Our commitment will be strong and sustained.

A lot of what is outlined here is ambitious – but we know that both those who work in the current system, and those who are affected by it, are crying out for a vision to unite behind. We look forward to seeing the first changes take effect, and to a new system of family justice taking root.

We thank the review panel for clearly articulating where problems lie and skilfully suggesting what we might do to improve things. Their work has been extremely thorough and their experience invaluable. We also want to thank all those who informed the work and responded to the consultation. We look forward to working with that wide range of interested stakeholders to deliver a system that is genuinely reformed.



The Rt Hon Ken Clarke,
Secretary of State
for Justice.



The Rt Hon Michael Gove,
Secretary of State
for Education.

B: The structure of this report

1. This response sets out our vision for how the Government, working with key partners, will reform the family justice system, improving it for the children and families who come into contact with it. Our ambitions are radical and will take time to implement, but the will and the appetite to make a difference is undeniable.
2. We have grouped our responses to the Family Justice Review Panel's recommendations according to the themes in the main body of their report. We begin with a child-centred system, as this is the central principle on which all the other reforms are based. We then consider the changes we will make to public and private law, and finally, we discuss how these changes play into a new system of family justice and what this means for more effective joint working between those professionals operating within it.
3. We are very pleased to be able to accept the overwhelming majority of the recommendations which the Panel made. *Annex 1* sets out the response to each individual recommendation, our rationale for doing so, and the detailed changes we will make.
4. This work requires drive and we intend to work at pace. In some areas we need to do more preparatory work before we can make sizeable changes, and we will engage families, those working on the ground and our partners as we do this, to make sure those changes are done in the right way but still at the earliest opportunity. A high-level timetable of when key changes will be made is in *section J*. We look forward to working closely with a wide-range of partners as early as possible in the process as we take forward the more detailed work.
5. The Secretary of State for Education, Justice Secretary and Welsh Ministers share the principle that the welfare of children is paramount and all are committed to providing clear leadership to achieve a shared purpose of a more coherent system. Families should experience a seamless service irrespective of national boundaries or responsibilities. We have not therefore attempted here to detail the differences as between England and Wales in legal and practice frameworks or reviews (the Family Justice Review's remit was the court system in England and Wales). However, key areas to note are the specific duties vested in Welsh Ministers and Cafcass Cymru in complying with the statutory children's rights scheme and the reform programme through *Sustainable Social Services for Wales*.
6. We expect this response will be read by a wide range of people – judges, magistrates, lawyers, Directors of Children's Services, social workers, parents, grandparents, academics, and special interest groups. This response is also accompanied by a young persons' guide. Children and young people actively contributed to the Family Justice Review, feeding in their experiences of what had worked well for them, and where they felt things needed to change. We are pleased to be able to report back to them how we plan to act on what they said. You can read the young people's version at www.education.gsi.gov.uk/publications.

C: The Reform Story

– an undeniable case for change

7. We are immensely grateful to David Norgrove and the Family Justice Review Panel. Their Interim and Final reports set out a detailed and thorough analysis of the problems of the current system and radical solutions to tackle them. Most stakeholders recognise their analysis and accept the need for reform. We share the Review's assessment of the challenges and also its commitment to this reform. We are under no doubt as to its huge importance – and the need to act.
8. The fundamentals of the Children Act 1989 stand. It is undeniably right that the best interests of the child should be the paramount consideration in every case. It is right too that cases should be driven by the principle of 'no delay'. It is also right that, if a dispute can be resolved without a formal court order, then no court order should be made. But whilst everyone working within the system would espouse these principles, the system fails to deliver them for children. It cannot be right that children wait, on average, 55 weeks for a court to decide whether to make a care order. Nor can it be right that separating parents go to court before other forms of dispute resolution have been properly tried.

Context – a system under strain

Case volumes have increased in recent years and are still increasing. The number of children involved in public law applications was 10% higher in the last 12 months than the preceding 12 months¹. Similarly it was 10% higher in 2010 than in 2006².

Care and supervision cases are taking longer – applications take an average of 55 weeks³.

There are around 20,000 children currently waiting for a decision in public law, compared to some 11,000 at the end of 2008⁴.

The Family Justice Review estimated that the total cost of public law cases in 2009-10 was over £1bn.

9. Every year thousands of children and adults are involved in the family justice system. It is a system which deals with hugely difficult and distressing issues, and families come into contact with it at critical points of great worry and conflict. Decisions to take a child into care are some of the toughest, most distressing

1 Data is for Q4 2010 to Q3 2011 and Q4 2009 to Q3 2010. Figures are provisional. Court Statistics Quarterly, Ministry of Justice, Jan 2012.

2 Judicial and Court statistics, 2010. Ministry of Justice.

3 Data is for Q3 2011. Figures are provisional. Court Statistics Quarterly, Ministry of Justice, Jan 2012.

4 Data is for September 2011 and is taken from internal management information.

decisions a court can make for all involved. In private law separating families may face problems which are equally traumatic and emotive.

10. In dealing with the breakdown of relationships the system must ensure it promotes the most positive possible outcomes for all children and families. The repercussions of the decisions made can have wide-ranging and long-lasting impacts, not just for the families involved, but also for society more widely.
11. Public law cases involve the most critical decisions about a child’s future and it is right that the issues should be given rigorous consideration, but we accept cases often take far too long to go through the courts. We are committed to minimising delay and ensuring that the needs of children remain at the heart of the family justice system.
12. It is worrying that in private law we often see straightforward disputes played out in the courts. The sad fact is that in far too many cases children become the focus for parental feelings of bitterness and hurt. The system is at risk of putting the rights of parents before those of their children. We too often also focus on process, rather than on helping those who need it.
13. The Review described the system as *“a set of arrangements in a slow building crisis”*⁵. In the worst examples the system can lead to ongoing uncertainty for children which potentially jeopardises their development and welfare. This system also comes at a huge cost, to individuals and to the taxpayer.
14. To make the necessary improvements the Family Justice Review proposed that we must tackle the excessive delays in care proceedings, develop better support for separating parents to help them avoid the need to go to court at all and build a simpler, more coherent system for family justice.
15. We must go back to the legislation which underpins the family justice system. As the Review confirmed *“There was general agreement in the consultation that the legal framework is robust and that the welfare of children must be the paramount consideration in all decisions affecting them”*⁶.
16. In looking at each recommendation we have been clear that, above all else, it is vital that we have a system which works for children.

We are all responsible for making change happen

17. The Government has a vital leadership role in this system, but change cannot be delivered by Government alone. If we are to re-focus the system on the needs of children this will require change from all of the key players: the judiciary, local authorities and family lawyers, as well as by the courts and the Children and Family Court Advisory and Support Service (Cafcass, and Cafcass Cymru). The programme of reform we set out in this response cannot be viewed in isolation. It complements the wider work we are doing – to raise standards in social work

5 Family Justice Review Final Report executive summary, 6, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

6 Family Justice Review Final Report, 2.3, link as above.

8 The Government Response to the Family Justice Review: *A system with children and families at its heart*

following the Munro Review⁷ and the Social Work Reform Programme⁸ in England and *Sustainable Social Services for Wales*⁹; with court reforms, designed to simplify processes, and to help litigants navigate their way through proceedings; as well as reforms to legal aid which seek to encourage parties to settle their disputes without recourse to the courts.

18. We know that the system has at its heart committed professionals who want to put children back at its centre, and we want to empower them to be able to do so.
19. As the Review rightly acknowledged, more money is not the answer. Major reform is needed to ensure better short and longer-term outcomes in the system, and make better use of the available resources. These are measures not intended to save money, but to fix a system in danger of failing those it was designed to protect.
20. We will work at pace to drive improvements quickly. Some changes can happen immediately, for example, the creation of a Family Justice Board, and new work programmes with our partners. We will be working very closely with local authorities and the judiciary to achieve this as they drive through their own programmes of reform. Others require legislative change which we will pursue at the earliest available opportunity, but which will take longer to implement.

The key principles of reform

21. We are being guided by a number of key principles in our responses to the Review's recommendations –
 - That the **welfare of the child** remains the paramount consideration in any proceedings determining the upbringing of the child;
 - That the family is nearly always the **best place for bringing up children**, except where there is a risk of significant harm;
 - That in private law, specifically, problems should be **resolved out of court**, and the courts will only become involved where it is really necessary;
 - Where court is the right option, that children deserve a family court in which **their needs come first**;
 - That both in public and private law cases children must be given an opportunity to **have their voices heard** in the decisions that affect them;
 - That the process must **protect vulnerable children**, and their families;
 - That this is a task not limited in responsibility to one organisation or another, but something **we must all work on together**; and
 - That **judicial independence** must be upheld as the system is made more coherent and managed more effectively.

7 Munro Review in England.

8 Social Work Reform – <http://www.education.gov.uk/swrb>

9 Sustainable Social Services for Wales – <http://wales.gov.uk/topics/health/publications/socialcare/guidance1/services/?lang=en>

22. With this in mind, we will seek to make a number of important changes which the Review proposed – to enable the child’s voice to be heard, to public law, to private law, to the workforce, and also to the system.

D: A system with children's needs at its heart

Through our proposed reforms we will put practical measures in place to ensure children's voices are heard before and during the court process.

23. The outcomes from the family courts can shape children's lives forever. That is why, at the heart of these reforms, are changes to improve children's experiences.
24. As the Review concluded *"Children's interests are central to the operation of the family justice system. Decisions should take the wishes of children into account and children should know what is happening and why."*¹⁰
25. Children deserve to be heard, feel that they have been listened to and understand what is happening throughout. They also need to know why certain decisions have been made. Great skill is needed to strike the right balance between making them feel involved, but not making them feel responsible.

The UNCRC

The United Nations Convention on the Rights of the Child (UNCRC) is an international human rights treaty that sets out a comprehensive set of rights for children. The UK ratified the Convention in 1991, and accordingly ensures that its national law and policies comply with the rights set out in the Convention.

We take seriously our obligations to promote and implement the UNCRC across the UK. We are committed to giving due consideration to the UNCRC when making new policy and legislation¹¹.

In Wales, we will shortly publish the 'Children's Scheme', which sets out arrangements for Welsh Ministers to have regard to the rights and obligations within the UNCRC and its protocols under the Rights of Children and Young People Measure (Wales) 2011¹².

The key principles of our reforms will truly meet the needs of children and are intrinsically in line with the 'general principles' of the UNCRC, which include:

- non-discrimination;
- a focus on the best interests of the child;
- the right to life, survival and development; and
- respect for the views of the child.

10 Family Justice Review Final Report, 8, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

11 <https://www.education.gov.uk/publications/eOrderingDownload/CM-7981-WMS.doc>

12 <http://wales.gov.uk/topics/childrenyoungpeople/rights/?lang=en&ts=1>

What we will do

26. We endorse (see our detailed response attached at *Annex 1*) the proposals which the Review made in respect of listening to the voices of children and ensuring their wishes and feelings are taken into account.
27. Initially, it will be for the new Family Justice Board (see paragraphs 86–88), to be established as quickly as April 2012, to take the detail of most of these recommendations forward and we expect that a young people's version of the Board will be set up as early as possible to support their work.
28. The Cafcass Young People's Board has set the bar high. The Review highlighted *"We have been impressed by the valuable work undertaken by the Cafcass Young People's Board. They provide an important perspective on the work of the family justice system and offer an intelligent and energetic challenge to the board of Cafcass."*¹³ We would look to any Board established within the new system to do likewise. The Board should allow children and young people to feed into plans for the implementation of the Review's recommendations as they develop, providing their perspective on how a reformed system should operate and raising their issues and concerns.
29. At the individual level more consistency is needed in how children are involved in the court processes which affect their lives. This needs to be done with great care and sensitivity, by practitioners who understand how to best communicate with and listen to children depending on their age and circumstances.
30. We expect the new Board will look quickly to find ways to support and involve children and young people, will develop age-appropriate information so children have a clear understanding of what might happen to them and will provide children with a range of ways in which they can feed in. Through developing national standards and guidelines, and drawing on the latest research and work of those who have already contributed in this area, such as the Family Justice Council, the Family Justice Board will empower professionals to feel more confident in working directly with children and young people and reflecting their views.

13 Family Justice Review Final Report 2.35, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

E: Changes to public law

The changes that we will make in public law will mean a family justice system in which delay is no longer acceptable and where the system has a much clearer focus on the child.

31. The delays in public law are a deep concern. Delays in care proceedings can be harmful, and may have a long term impact on a child's development and on their chance of finding a permanent home. Lengthy proceedings can cause uncertainty and anxiety. The Review reflected in their report *"A baby can spend their first year or much longer living with foster parents, being shipped around town for contact with their birth parents, while courts resolve their future. The longer the case the greater the stress, both for children and adults"*¹⁴.
32. For some children, the most appropriate way to safeguard and promote their welfare is for them to become looked after. The Review stated *"There is a tendency to overlook the successes of the care system. Evidence shows that the majority of maltreated or neglected children who stay in care or who are adopted will do better in terms of well being and stability than those who remain at home. Care works for these children"*.¹⁵ Research published by the Department for Education *Safeguarding children across services – messages from research* in November 2011¹⁶ supports this position. It found that *"care can be the best option for some maltreated children and should not be seen as the last resort"*. It also states *"neglected and emotionally abused children who return home tend to fare worse both on indicators of wellbeing and of stability than those who remain looked after."* This is also supported by evidence from the Ministry of Justice.¹⁷
33. Children involved in care proceedings are already among the most vulnerable in society. It is unacceptable that processes designed to protect them may be adding to the difficulties they face.
34. Over the years multiple attempts to reduce case length have been made. All have been well intentioned but case duration continues to rise. We must be more radical and ambitious in our approach. We know that those practitioners working in this area share the frustration and are committed to addressing this.
35. There is an array of factors which have contributed to the problems. Inefficient or overlapping processes are part of the issue but many of the problems go deeper and are to do with attitudes and cultures and the working of the system as a whole: long-standing skill gaps; the lack of clear lines of accountability, with no single body responsible for ensuring cases progress in a timely way; increasing case-loads; the mistrust and lack of effective collaboration between the various

14 Family Justice Review Final Report, 2.9, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

15 Family Justice Review Final Report, 3.24, link as above.

16 Pg 88 onwards, *Safeguarding children across services – messages from research*, Carolyn Davies and Harriet Ward, November 2011, <https://www.education.gov.uk/publications/RSG/AllRsgPublications/Page4/DFE-RBX-10-09>

17 The evidence suggests that maltreated and neglected children remaining in care or adopted fared better, at least in the short/medium term, than those returned home. In some cases those children that were returned home faced further maltreatment. *Giovannini, E. (2011). Outcomes of Family Justice Children's Proceedings – A Review of the Evidence.* Ministry of Justice, London.

agencies and other professionals involved; and a culture which too often allows the commissioning of multiple additional assessments while under-prioritising the importance to children's welfare of speedy case resolution.

36. All this has led to a system where delays to cases are simply accepted as inevitable, while the damaging impact on the child is too often underplayed.
37. We need a programme of reform which will quickly tackle the inefficiencies but which will also in the longer-term go deeper; shifting the culture, remedying the skills gaps and ensuring that cases are more robustly managed to timescales in line with children's needs. This very much builds on the issues Professor Munro, the Social Work Reform Programme¹⁸ and *Sustainable Social Services for Wales*¹⁹ highlighted and work which we are already taking forward. Children must genuinely come first in every single case.

What we will do

38. Building on the Review's recommendations, our reforms centre on a number of priorities to return to a child-centred system.
39. To create a system where cases are better managed, delays are minimised and children's needs come first we shall:
 - introduce into legislation new, clearer powers to ensure that the child's welfare and their timetable, must be considered in determining how quickly cases progress. We will develop clearer guidance and training on what factors should be taken into account in establishing an appropriate timetable for each child and develop clear processes within the system for tracking cases through to completion.
 - work with the President of the Family Division to ensure a new, more robust role for judges themselves in deciding and ensuring the timetable for the child is met. We will support this, working with the judiciary, to ensure, wherever possible, that the same judge sees a case through from beginning to end and that judges hearing family cases are increasingly family law specialists.
 - legislate to give judges greater discretion over the duration of Interim Care Orders and their renewal, removing the unnecessary constraints and additional administrative processes connected with the current renewal arrangements.

The role of experts

40. We will act to reduce the excessive use of expert reports and strengthen the quality and timeliness of those which are commissioned.
41. Care proceedings raise some of the most difficult matters to be brought before the courts. Experts play an important role in supporting the court to reach the right decision on whether the child should be taken into care. But the commissioning of multiple expert reports, which can duplicate or substitute for

18 <http://www.education.gov.uk/swrb>

19 <http://wales.gov.uk/topics/health/publications/socialcare/guidance1/services/?lang=en>

14 The Government Response to the Family Justice Review:
A system with children and families at its heart

the detailed evidence already offered by the local authority, is now the norm.

A recent review of case files found experts feature in nearly 90% of care cases, and where experts are commissioned there are, on average, nearly four expert reports in each case²⁰. There are doubts over the value added by many of the reports while the additional delays and costs which result can be extensive.

42. We will legislate to make clear that in family proceedings the courts should only give permission for expert evidence to be commissioned where it is necessary to resolve the case and the information is not already available through other sources. We will also require the courts, in giving permission to commission expert evidence, to specifically consider the impacts the delay will bring. Local authorities will need to play their part by providing high quality, comprehensive initial assessments.
43. We also agree with the Review that there should be some minimum standards set to ensure that witnesses commissioned are experts in their fields and that they produce high-quality evidence which helps the court to reach its decision. We will look to develop these standards through the Family Justice Board.
44. We agree that multi-disciplinary teams of health experts, as proposed originally in the Chief Medical Officer's report *Bearing Good Witness*²¹, have merit. We will learn the lessons from the original pilot in England and work with key partners, including the Department of Health, to design an effective means of testing this approach.

Working with local authorities

45. We will act to raise the standards of social care practice which, in some areas, have driven the lack of trust in the evidence local authorities present and helped generate more delays. The quality and timeliness of social care assessments put to the courts has a crucial bearing on how quickly cases progress. Poor or late assessments can lead to delayed or re-scheduled hearings and can result in courts commissioning evidence-gathering elsewhere. Building on work already in train following the Munro review in England, the Social Work Reform Programme, and the *Sustainable Social Services Review* in Wales, we will work with the College of Social Work and the Care Council for Wales to ensure that court preparation and presentation skills become an integral part of initial and continuing social work training. We do recognise that there is also some outstanding local authority practice, and we want that to be shared with others so that consistency is improved.
46. Local authorities have a critical role to play. With the Association of Directors of Children's Services (ADCS) in England, the Association of Directors of Social Services in Wales (ADSS) and others in the sector, we will support a programme of work to capture and disseminate best practice and to foster closer collaboration and joint learning between the courts and local authorities. We will act to ensure that all authorities can draw on evidence-based practice to support their work with families.

20 Cassidy, D. and Davey, S. (2011) *Family Justice Children's Proceedings – Review of Public & Private Law Case files in England & Wales* Ministry of Justice.

21 Chief Medical Officer (2009). *Bearing Good Witness: Proposals for reforming the delivery of medical expert evidence in family law cases*. London, Department of Health.

47. Within this, approaches which support social work teams in assessing parents' capacity to change will be particularly important. More high-quality work with children and families will ensure more credible evidence is put before the courts. Children should remain with their families whenever this is possible but, where cases need to come to court, we need to ensure they are supported by robust evidence and systematic work with the family. We will encourage the early use of evidence-based approaches with families to help make this happen.
48. Through the broad programme of workforce development outlined in *section H* below, we will build the skills of all the professionals in the system and strengthen collaboration and joint learning. Increasing understanding of child development and the impacts of delay will be particular priorities.
49. We will strip out duplication and ensure the role of the court is properly focused. Duplicate and overlapping processes are adding to resource pressures and causing unnecessary delay. We will legislate to remedy this in two key areas.
50. First, on the care plan. Driven partly by concerns over the quality of local authority social work, courts can spend large amounts of time scrutinising the detail of local authority care plans for children before making care orders. The Review remarked "*Court scrutiny goes beyond what is needed to determine whether a care order is in the best interests of a child*²²". The detail of care plans can, and often will, change over time in response to children's changing needs. Though courts will still need to consider the core elements of the plan, in the majority of cases the detail could and should be left to the local authority. We will legislate to make this clear.
51. Second, on adoption panels. Under current arrangements, local authorities can only apply for a placement order after a case has been considered by the adoption panel, the panel has made its recommendation and the local authority has made its decision. Since the court must undertake a full assessment of the evidence, we will remove this requirement and prevent any duplication.

22 Family Justice Review Final Report, 61, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

Focus on adoption

Adoption can transform the life chances and prospects of some of our most vulnerable children. Yet the adoption system can be undermined by delay that can potentially deny children the chance of adoption and a secure and stable future.

Delay in the court system is a significant element of this. We will change this by implementing the measures outlined above, so that where adoption is the right outcome for a child, it happens as swiftly as possible.

As well as taking forward the recommendations in the Review we are also going to:

- overhaul the process and timeframe for recruiting prospective adopters, without whom those vulnerable children cannot be adopted;
- remove other barriers and delays to the decision-making process for the child, including promoting more use of concurrent placements and early family finding;
- examine adoption breakdowns and contact arrangements and what this means for more effective post adoption support for adopted children and their families; and
- develop a performance framework building on the data tables published in October and December 2011.

Similarly in Wales, we have committed to improving arrangements for adoption as part of our *Sustainable Social Services for Wales* and we will establish a National Adoption Agency to facilitate the adoption process, to improve efficiency, and to deliver fewer delays and better outcomes for children.

Tackling delay

52. Most importantly, we will act to ensure all parts of the care system are resolutely focused on reducing the current unacceptable delays and delivering better outcomes for each and every child.
53. The principle that cases should be progressed without unnecessary delay and at a speed which takes account of a child's needs and circumstances already forms part of the legislative and administrative framework governing care proceedings. However, this has not prevented considerable delays building up in the system.
54. To send a clear and unambiguous signal into the system that change is essential, we will introduce legislation to provide for a maximum time limit within which care cases must be completed. The Review explained "*A time limit could deliver a jolt to the system, breaking current expectations, and creating a new set to which all would need to work*²³".
55. Our aim is to legislate to provide for a time limit of six months for the completion of care and supervision cases as soon as this is reasonably practicable. Cases which can be, should be progressed much more quickly. Judges would retain the flexibility to extend a case beyond the time limit in exceptional cases where this is necessary in the interests of the child and the reasons have been clearly set out.

23 Family Justice Review Final Report, 3.68, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

This new legal requirement will help ensure that speedy case progression becomes the norm and that tackling unnecessary delay receives the sustained attention it deserves.

56. We will act quickly to take this work forward. Where legislative change is involved, we will bring this forward at the earliest opportunity.

F: Changes to private law

Supporting families to reach their own agreements

57. We strongly believe that in most circumstances, mothers and fathers, working together, are the best people to make arrangements about their children's lives after separation. While the adult couple relationship may be over, mothers and fathers continue to have a parenting relationship with their children. We believe that children normally benefit from the continued involvement of both parents in their lives and from arrangements which can respond to changing needs over time. We therefore want parents to be supported in developing flexible and co-operative agreements, which focus clearly on their children's needs.
58. Our approach to reform in relation to private law has two distinct parts:
- the measures we will put in place to try to support families so that they do not need to bring their issues to court in the first place;
 - and, in the minority of cases where the courts do become involved, measures to ensure this can happen quickly and in a straightforward manner. Ensuring parents can put their case is, of course, important, but children's interests must be paramount.

What we will do

59. The principle of continued shared parenting after separation underpins the approach which we have taken on private law. Both Governments believe that children benefit from both parents being as fully involved as possible in their child's upbringing, unless there are safety or welfare concerns.
60. This is a sensitive issue with strong opinions on both sides of the debate. The Review decided to recommend no change in the law to establish a presumption of shared parenting, or to insert into legislation a statement about the need for a child to maintain a meaningful relationship with the parent who does not live with them. However, many people continue to have concerns about the proper recognition of the role of both parents by the courts.
61. The Government believes that there should be a legislative statement of the importance of children having an ongoing relationship with both their parents after family separation, where that is safe, and in the child's best interests. We have established a working group of Ministers to develop proposals for legislative change, which will be brought forward for wide debate and consultation later this year.
62. The Government is mindful of the lessons which must be learnt from the Australian experience of legislating in this area, which were highlighted by the Review and led them to urge caution. We will therefore consider very carefully how legislation can be framed to avoid the pitfalls of the Australian experience, in particular that a meaningful relationship is not about equal division of time, but the quality of parenting received by the child.

63. Any changes will be complementary to, not in conflict with, the principle in the Children Act 1989 that the welfare needs of the child are the paramount consideration in any decisions made by the court; this remains the ‘gold standard.’ The changes will make it clear that the court should consider an ongoing relationship with both parents as something that in most cases will contribute to the child’s welfare – and should look at the question through this lens, of what is best for the child – rather than as a ‘right’ for the parents.
64. The aim of any presumption of shared parenting will be to enhance the prospect of an agreement between parents which is in the best interests of their child, without recourse to often damaging and protracted adversarial action in the courts, which clearly is not in the child’s interests. We have taken the same approach, focusing primarily on the needs of the child, with regard to contact and maintenance (see paragraph 75).

Support across public services

The Government recognises that it is important that parents have information and support so that they can care well for their children. There is already a wealth of digital information available to parents. The Government is exploring new ways of making digital advice and information for parents more accessible at regular intervals during pregnancy and early childhood.

Currently the NHS Choices website supports parents with health related information through an interactive **Pregnancy Care Planner** (based on ‘The Pregnancy Book’) and **Birth to Five guide** (based on the ‘Birth to Five’ book) and a range of videos on issues relating to pregnancy, babies and children. <http://www.nhs.uk>.

Finding solutions outside the courts

65. For many families court proceedings are not the best way to settle disputes about their children’s future. Unless there are serious concerns about the welfare of children, it may be preferable for parents who are separating to reach their own agreements about the care of their children and their finances without going to court. These agreements tend to last longer, and may give rise to less parental conflict, than those imposed by the courts. Courts can only make a decision at one point in time based on the facts before them but mothers and fathers need to find a way of working together for the sake of their children throughout their childhood. We must therefore provide a range of support to separating families so that they can develop their own solutions. This reflects the Review’s recommendation *“Our aim is a supportive, clear process for private law cases that promotes joint parental responsibility at all stages, provides information, manages expectations and that helps people to understand the costs they face. The emphasis throughout should be on enabling people to resolve their disputes safely outside court wherever possible”*²⁴.
66. We will therefore establish, as soon as possible, an improved dispute resolution process outside the courts with a coherent pathway underpinning it which families can easily navigate.

24 Family Justice Review Final Report, 4.69, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

20 The Government Response to the Family Justice Review:
A system with children and families at its heart

67. The natural starting point for this is to ensure that parents understand what is expected of them. We agree that there is a need for simple, clear and straightforward information about parents' obligations and responsibilities to their children and the implications of separation. Parents also need links to wider sources of information, help and support. We will be offering online support for separating parents. All parents needing support and assistance will begin the formal process of separation from this same starting point.

Support for separating and separated parents

Parental separation can be difficult for the whole family. At this time families may need support on a whole range of issues from housing and benefits; to reaching arrangements about the care of their children and child maintenance; to more in-depth emotional support.

There is currently a wide variety of information and support available, however parents often don't know where to go or which service they can trust.

To help parents navigate to the support they need, the Department for Work and Pensions will be leading work across government to commission a new web and telephony service which will provide trusted, independent information for separating and separated parents and will direct them to services relevant to their need.

The web and helpline service are being built so they are flexible and evolutionary to allow for the addition of new services over time as they are developed and evaluated.

We will also work with professionals and charities to help design services and methods of providing information which can be accessed and understood by parents who themselves may have learning or other difficulties which make it harder to assimilate and apply information and advice.

The new web service will be commissioned in 2012, with a telephony service following in 2013.

68. We continue to support the development of a Parenting Agreement to help parents agree on the practical arrangements for their children; this will be central to the process of resolving disputes. The new web service will evolve in order to provide more information on how families can do this effectively. Parenting Agreements can also potentially detail the ongoing ways in which children can maintain a relationship with other members of the family, particularly their grandparents.
69. Where some separating couples and other applicants to family proceedings need more help, we will build on the Pre-Application Protocol already established by introducing legislation to ensure that before approaching the court they undergo a Mediation Information and Assessment Meeting (MIAM) to determine whether mediation would be suitable for them. There will of course be some circumstances where mediation may not be appropriate, and therefore clear safeguards and exemptions will apply.
70. It can be difficult for parents to be aware of how their actions during or after separation impact on their children, especially where conflict centres on the children's care arrangements. We will ensure that separated parents are aware of

available support, such as specialist parenting programmes, which help them to resolve disputes about child contact and other important decisions. Parenting programmes encourage separated parents to work together so that they can best meet the needs of their children. This may include formulating a Parenting Agreement that is realistic, child-focused, and satisfactory to both parents.

71. Existing specialist parenting programmes are being strengthened to ensure they meet the needs of separated families in dispute and provide positive outcomes for children.
72. We fully support the Panel's view that *"All mediation in which disputes about children are being discussed should be child centred – that is the welfare of children should be central to it"*²⁵. To demonstrate our commitment to this approach we have already announced that we will be increasing the amount of public funding available for mediation by £10 million to £25 million per annum. Working in conjunction with the voluntary sector in England and Wales is a key part of this. Where mediation is appropriate it also provides a key opportunity to provide parents with wider information and support. For many couples, this level of support will be enough to help them agree on future arrangements for their children.
73. In cases where there may be domestic violence or safeguarding issues, matters will progress more quickly to the courts. But in general, we expect parents will not apply to court until the steps outlined above have been taken.

25 Family Justice Review Final Report, 4.105,
<http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

The importance of grandparents

Grandparents often play a vital role in their grandchildren's lives. This is especially significant when parental relationships are changing, through separation, divorce or re-marriage. They can provide a very important source of stability in difficult times. During these times of change, grandparents can offer support, continuity and reassurance. Grandparents can also take on a role in helping to facilitate contact with a non-resident parent, for example by enabling contact to take place at their house, or by being present when contact takes place.

Some have called for a removal of the requirement for grandparents to seek permission to make an application to court and so put them in the same position as a child's parents. In their final report the Panel said "*We do not believe that courts refuse leave unreasonably or that seeking leave is slow or expensive for grandparents. Rather, the requirement to seek leave prevents hopeless or vexatious applications that are not in the interests of the child*".²⁶

We agree with the Panel that grandparents should continue to seek permission before making an application to court for contact. We want to encourage and support grandparents, like parents, to settle their differences outside of the court process.

But grandparents themselves sometimes lose contact with their grandchildren as a result of parental separation. We are clear that the importance of children's relationships with other family members should be emphasised and will ensure this issue is fully reflected in the process for making Parenting Agreements and in bespoke parenting classes for separating parents.

Where cases do need to reach the courts

74. Even with this richer range of support, there will, of course, be some cases where families simply cannot agree and which need to go to the courts. This includes those families who are exempt from the process above, perhaps because there is abuse or a power imbalance – the court is the right place for those decisions to be made to ensure that vulnerable children and adults can be protected. But the courts must be able to deal with these cases much more quickly and efficiently than they do at present.
75. To simplify the process and make it more transparent we will establish a single Family Court for England and Wales, with a single point of entry, as the Review recommended. Proceedings in the Family Court will be allocated to the appropriate level of judiciary and we will consider the possibility of providing for cases to follow one of a number of "tracks" depending on, for example, complexity or urgency.
76. We will also work with the President of the Family Division, HMCTS and other agencies to change processes in court so that they are easier to understand and take place more quickly. We agree that the terminology "contact" and "residence" has become unhelpfully associated with the idea of losing and winning. This notion does not foster co-operative parenting or an emphasis on child-focused arrangements.

²⁶ Family Justice Review Final Report, 4.46,
<http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

77. By introducing a new child's arrangement order, children's needs will better determine the practical arrangements made for their upbringing. There will similarly be no link between contact and maintenance in enforcing court orders. These cannot be seen by parents as commodities to be traded. Children are entitled both to receive financial support from both parents and to maintain contact with both parents, where this is safe. It is difficult to conceive how withholding either of these things meets the welfare needs of the child.
78. The new form of order should help parents to focus on their children's needs. However, the making of the order needs to be underpinned by swift and effective mechanisms to ensure that any difficulties that may subsequently arise are resolved swiftly. At present, delays in getting cases back to court when contact orders are breached, and lack of effective enforcement measures, have seriously undermined the credibility of the court process.
79. The Family Justice Review recommended that breach of an order within 12 months should be brought back to court within a set number of days, before the same judge who made the original order. We believe that this is the key to breaking the cycle of conflict between parents and initiating or re-starting contact for the child without delay. Existing enforcement powers (which include a fine, imprisonment or unpaid work) would continue to be available to the judge at this early stage together with, in exceptional cases, reversing the child's residence to the other parent where that would better meet the child's welfare needs.
80. We propose to go further, however. We believe that a much stronger warning should be given at the outset of proceedings about the potential consequences of either parent breaching a child's arrangement order. We are also exploring options for wider enforcement sanctions to make it easier for the courts to take enforcement action. The aim, however, would be to highlight these potential sanctions to emphasise the importance the Government attaches to securing contact for the child and, ultimately, trying to avoid enforcement from becoming the central issue.

Divorce

81. With regards the system more widely, the Review also made a number of recommendations to simplify and streamline the divorce process. The Review concluded *"There is scope to increase the use of administrators in the courts to reduce burdens on judges and create a more streamlined process in the 98% of cases where divorce is uncontested. The current process requires judges to spend time in effect to do no more than check that forms have been filled in correctly, with accurate names and dates. This is a waste. To change it would not make any difference to the ease or difficulty of obtaining a divorce. It would just make more judge time available for more important things²⁷".*
82. We agree. There will be no change to the substantive divorce law, other than the removal of the requirement for the court to consider arrangements for children in proceedings for a divorce. This is not about making divorce easier for couples, but rather it streamlines processes for the courts. Since the very large majority of

27 Family Justice Review Final Report, 4.166, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

24 The Government Response to the Family Justice Review:
A system with children and families at its heart

divorces are not contested, generally these should be handled administratively in the courts by appropriately qualified persons, rather than by judges. This will allow judges to spend more time on dealing with difficult cases and we will take forward the work necessary to achieve this. More detail on the specifics of this change can be found in *Annex 1* (recommendation 130).

G: Developing the Family Justice Service and system leadership

Through our proposed reforms our aim is to create a coherent and effective system which draws on the expertise which all parties bring to it and which delivers effectively for users.

83. There have been many reviews of the family justice system over the last twenty years, but many of the same problems persist, and none have been able to provide a sustainable solution. In fact, the Panel argued that the family justice system is not a system at all and that reform of the overall framework in which private and public law sits should take place.
84. We agree with the Review: *“The core aim [of the system] should be to support delivery of the best possible outcomes for children who come into contact with the family justice system, with a particular focus on reducing delay”*²⁸. We will build a system centred on children – and this means building even stronger partnerships between government, local authority children’s services, the judiciary, the court service and the voluntary and community sector, as well as social work, education, police and health services. This requires culture change and a greater focus on leadership at all levels. Given the tighter financial climate, it will be ever more important for all those involved in child protection and family justice to work together effectively to get the most from their resources.
85. This must be a system which is simpler, more coherent and better understood by all those who use it, a system which operates effectively and efficiently because it is well-led and well-managed, at a national and local level, with the right skills mix and the capacity to learn and improve.

What we will do

86. We are committed to creating a more coherent system with continuity, specialisation, high-quality management and improved performance at its heart. We know professionals share this ambition to make things work better.
87. We will improve the quality, scope and co-ordination of research, data and management information in the family justice system, in support of the work of the Family Justice Board which we outline below. This will include the development of a set of system performance measures, as well as improving the research evidence base. This work will be led by the Ministry of Justice, working closely with the Department for Education, HMCTS, the Welsh Government, Cafcass (and Cafcass Cymru) and wider stakeholders. In the Government’s

²⁸ Family Justice Review Final Report, 14, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

26 The Government Response to the Family Justice Review:
A system with children and families at its heart

response to the Justice Committee report on the Operation of the Family Courts we set out work that had already been undertaken to improve the evidence base. We include an update on progress in *Annex 2*.

88. The Review recognised that any significant machinery of government change is far from simple when they said “*we recognise that structural change can be expensive and fail to deliver the expected benefits*²⁹”. It therefore recommended that Government establish an interim Board to start the immediate work to reform the system. We will do this by April 2012 and make public the composition and terms of reference of the Family Justice Board as it is established.
89. This Board will provide the leadership and direction necessary to implement our ambitious plans for change. It will be accompanied by new local groups that feed into it, replacing the Local Performance Improvement Groups and Local Family Justice Councils that currently exist and streamlining local structures. The Board’s main focus will be on driving improvements in performance across the system and ensuring that the different parts of the system work together as effectively as possible to enable this. In particular the Board, which will include senior representatives from across the key delivery agencies, will focus on reducing delay across the system, helping it prepare for the introduction of the statutory six-month time limit in care cases.
90. To achieve this the Board will use the court-level performance data that has been published by Ministry of Justice from January 2012 to identify and coordinate where the system needs to focus its efforts and resources, as well as best practice which it will help to disseminate. The Board will formally report on its work annually and will be replicated locally to bring together local agencies and stakeholders to oversee the operation of family justice in their areas. The focus and terms of reference of the Board will be revisited once decisions are made on any further structural reform, and once legislation has been brought forward to introduce the six-month time limit.
91. To complement this close focus on performance, we propose that accountability for the delivery of the court social work service in England should transfer to the Ministry of Justice to encourage closer strategic alignment between the key delivery agencies. We will start planning this move immediately, though the transition will take place in the longer term.
92. With this new direction, and a return to a shared focus on the child, the system can be re-invigorated and improved for the benefit of all those who have contact with it.

29 Family Justice Review Final Report, 2.41, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

What this means for Cafcass and Cafcass Cymru

Cafcass has made substantial progress in its performance, particularly in the light of a significant and sustained increase in demand for care applications over the last three years.

Cafcass has reformed many of its working practices to absorb a much higher volume of cases, and has made a 15% increase in productivity since April 2010, improvements which are now being built on further.

To embed these changes and bring Cafcass more completely into the wider system of family justice, we will transfer the sponsorship of Cafcass from the Department for Education to the Ministry of Justice. This will bring court social work functions closer to the court process, to mediation services and to out of court resolution and will give Cafcass a strong voice within the wider family justice system to champion the voice of children in the courts.

Cafcass will retain a close working relationship with the Department for Education once it has transferred. This will ensure effective links to the wider children's services agenda are maintained, and will keep Cafcass' involvement in developing best practice in children's social work.

In Wales, statutory responsibility for the provision of court social work advice will remain with the Welsh Ministers via Cafcass Cymru. As with local authorities and other key stakeholders in Wales, Cafcass Cymru will retain responsibility for contributing to improvements as part of the whole system reform of family justice.

H: The judiciary and wider workforce

Through our proposed reforms we will develop a more competent and capable workforce.

93. Family Justice brings together a wide range of experts and professionals who need to be able to work together closely, understand each other's unique contribution, and feel confident that those they are working with can give them the service they need to be able, in turn, to carry out their role effectively. The Review summarised *"The skills and attitudes of people are at least as important as legislation and process in supporting reform of the family justice system"*³⁰.
94. We will work with practitioners and professionals who have roles related to the family courts so they better understand the processes involved and each other's roles, and have the confidence to perform to the highest standards.
95. Our approach to workforce is, of course, intrinsically linked to the wider work explained above, particularly in terms of accessing the right kinds of information and research, and new structures for performance reporting.

What we will do

96. The Review highlighted that to tackle delays, and implement this programme of reform successfully, a significant shift in the culture and practices of all those who work in the family justice system will be required. In particular, the leadership of the judiciary was highlighted as critical in driving forward improvements to case management and making the court process more efficient. The final Review stated *"The judicial hierarchy is increasingly and rightly also becoming a management hierarchy"*³¹.
97. The Review recommendations build on some of the work already initiated by the President of the Family Division to improve case management and the use of experts to avoid unnecessary delay in resolving public law cases. The judiciary has already begun to respond to other recommendations, including defining the role of family leadership judges more clearly and the broader programme of work associated with implementing the recommendations arising from the Report of the Advisory Panel on Judicial Diversity.
98. We note that the continuation of this work will be enhanced with the appointment of Mr Justice Ryder, a High Court judge, to the new post of 'Judge in charge of modernisation of the family justice system'. The appointment has been made in recognition of the importance of judicial leadership in ensuring that the reforms are successful in leading to radical and sustainable change. Though its

30 Family Justice Review Final Report, 41, <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

31 Family Justice Review Final Report, 48, link as above.

terms of reference are not limited to workforce change, the establishment of the Family Business Authority will ensure that HMCTS and the judiciary work together in partnership to drive up performance and improve the operation of the family courts.

99. In respect of judicial training, the Judicial College already delivers within its induction and continuation seminars, training on those areas which are recommended for judges, magistrates and legal advisers (e.g. case management, child development and the use of expert evidence) and further consideration will be given over the coming year to strengthening these existing elements.

Using a range of locations

Courts can be a daunting and scary environment for children and families. Many are not practically set up to cater for children and few use new technologies like video conferencing in family law cases to good effect.

We agree with the Family Justice Review's recommendation that courts be made as family friendly as possible

As HMCTS continues to reform and modernise its estate, these issues will be central to its considerations, whilst it will continue to develop best practice on how to cater for families and family cases.

100. There are, of course, other professionals with a key role to play and much of what the Review said in relation to social work chimes with the work we are already taking forward as a result of the Munro Review, the Social Work Reform Programme and *Sustainable Social Service for Wales*³². Family justice is a specialist and discrete area which requires specific knowledge, skills and training in order that professionals feel confident and supported in the difficult work which they do. We are therefore discussing with the College of Social Work, the Social Work Reform Board and the Care Council for Wales how social work training can be bolstered to ensure practitioners have a clear understanding of the court process, and their role within it. We will also use our guidance in England and Wales on the role of Directors of Children's Services to set out more clearly the role which they have in relation to social care and the courts.
101. The judiciary and other professionals working in the system need to be able to access high quality information and evidence about the performance of the system, users of the system, and what works in improving efficiency and outcomes, to help them to perform more effectively. The proposed new structures for performance reporting, alongside the work on developing the research evidence base, will facilitate this.

32 <http://www.education.gov.uk/munroreview/> <http://wales.gov.uk/topics/health/publications/socialcare/guidance1/services/?lang=en>

A picture of wider reforms – the Munro Review

Since the publication of our response to Professor Munro's recommendations in July 2011³³, the Government has been working in partnership with all those involved in safeguarding children to bring about lasting reform.

Together, we want to build a child protection system where the focus is very firmly on the experience of the child or young person's journey from needing to receiving help.

What is needed is a fundamental shift in the way the system works, to enable professionals to focus on the needs of children, young people and families and how to give them the best possible help. This requires partners to work effectively together with the needs of the child at its heart. Only through effective multi-agency working can this be achieved.

We have engaged with ADCS, health, police and education to consider how best to deliver Professor Munro's vision of a transparent and coordinated offer of early help for children and families. We have concluded that as there is already sufficient legislation for local services, and that further legislation would add bureaucracy where the focus should be on delivering early help and improving outcomes for our most vulnerable children and young people. Therefore we are continuing to work with partners so that professionals are clear about the existing legislation, emphasising the importance of early help and identifying areas to drive progress.

We are working to reduce bureaucracy and make it easier for the front line to use their professional judgment through revisions to Working Together to Safeguard Children and the Framework of Assessment for Children in Need and their Families. There will be a formal consultation shortly and we will publish revised statutory guidance by July 2012.

We are working with eight local authorities to test more flexible approaches to assessment. The emerging findings are encouraging and suggest that removing both the distinction between the initial and core assessments and nationally prescribed timescales for assessment can have the positive impact on practice envisaged by Professor Munro. We are continuing with these trials to explore further the impact of these changes, especially for children and young people and will be consulting on flexibilities as part of the *Working Together* consultation.

The child protection system needs to be underpinned by workforce reform, particularly in relation to social work where we are committed to building a strong, confident profession, providing high quality help to children and families. We are working with stakeholders such as the Social Work Reform Board (SWRB) and the College of Social Work, to bring about these improvements.

Last summer, Ofsted consulted on local authority child protection inspection arrangements that are more child centred. These new arrangements will begin in May 2012.

Further detail on progress made in taking forward the Government's response to Professor Munro's review can be found on the dedicated pages of the Department's website³⁴.

33 <http://www.education.gov.uk/munroreview/downloads/GovernmentResponsetoMunro.pdf>

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

In Wales, the Welsh Government has set out its reforms to further safeguard and protect children which will include the establishment of a new National Independent Safeguarding Board and steps to be taken to strengthen collaborative and partnership arrangements through larger Safeguarding Children Boards to replace the current structure of Local Safeguarding Children Boards. The Welsh Government has also set out in consultation its proposals to introduce a new Child Practice Review framework, to replace Serious Case Reviews, which will provide more effective arrangements to ensure that practitioners from all agencies learn from experience and which will inform more robust child protection and safeguarding arrangements.

I: The impacts of reform

As a whole, what do these changes add up to?

For parents – a simpler, more straightforward system that they understand and have confidence in, and that will give them the support they need quickly and effectively.

For social workers – a streamlined system which supports and inspires them to use their professional expertise to achieve the best outcomes for children.

For local authorities – a less resource-intensive system which allows them the flexibility to determine how best to meet a child's needs, without unnecessary additional scrutiny.

For courts and the judiciary – a process which is easier to manage, less bureaucratic and more focussed on the needs of the child.

For the wider family – a clear sense of roles and responsibilities, the ability to input and be listened to, and understanding of the process.

And above all else, for children – a faster system which recognises, listens and responds to their needs and concerns; protects their welfare and secures their safety; and one that helps them enjoy their childhood in the most stable environment possible.

J: What's next...

102. As befits such an important set of major reforms, these changes will take time. While some work is happening already, and other things can be developed quickly, some work is more complex and longer term and will involve very fundamental change, including to legislation, behaviour and culture.
103. Where legislation is required, this will be introduced as soon as parliamentary time allows³⁵. We will move as quickly as possible on implementing the other recommendations we have accepted and report regularly through our respective Departmental Business Plans on progress.
104. This is only the beginning of the story. Our commitment to reform is strong, and will be sustained.
105. By April 2012 we will have –
 - Established the Family Justice Board to begin its drive to improve performance across the system.
 - Clarified the legislative changes that will be required and provided additional detail in our impact assessments.
 - Set out detailed work programmes with local authority Director representatives (ADCS and ADSS Wales) and the judiciary.
106. By April 2013 –
 - The Government will report on progress in implementing the wider reform programme.
 - We will have in place performance measures to hold the system to account and drive change.
 - We will have developed with our partners a cross-cutting workforce strategy.
 - The Board will produce its first annual report on the performance of the family justice system later in the summer of 2013.
 - The online support will have improved, with a model available offering families a range of supportive tools and signposting them to tailored advice and guidance.

³⁵ Any changes to devolved legislation will be taken forward at the earliest opportunity in the context of the Welsh Government's legislative programme.

K: Annex 1 – Detailed response to each recommendation³⁶

No	Family Justice Review Recommendation	Accept/Reject	Reason
The child's voice			
1	Children and young people should be given age appropriate information to explain what is happening when they are involved in public and private law cases.	Accept	<p>The Government agrees with the Review that children involved in disputes should be given information which helps them understand what is happening. It is also seeking to reform the overall system in a way which reduces the emotional strain on those involved, particularly those children and young people who are at the heart of disputes.</p> <p>The Family Justice Board, to be established by the Government, will consider how age-appropriate information can best be developed and disseminated. It will seek the views and ideas of children and young people in doing so.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
2, 126	<p>Children and young people should as early as possible in a case be supported to be able to make their views known and older children should be offered a menu of options, to lay out the ways in which they could – if they wish – do this.</p> <p>Children and young people should be given the opportunity to have their voices heard in cases that are about them, where they wish it.</p>	Accept	<p>The Government agrees with this principle. Children and young people must remain at the heart of the system and their views taken into account in decisions which concern them.</p> <p>This is one of the principles which is guiding reform of the system and underpins the Children Act 1989 and the operations of Cafcass and Cafcass Cymru. The Government wants to ensure the system listens to children, takes into account their wishes and feelings, and helps professionals to have the necessary skills to support children and young people to express their views.</p> <p>The Family Justice Board will be asked to consider how children can best be supported, including through a menu of options, to make their views known and be taken into account in decisions that affect them.</p>
3	<p>The Family Justice Service should take the lead in developing and disseminating national standards and guidelines on working with children and young people in the system. It should also:</p> <ul style="list-style-type: none"> i) ensure consistency of support services, of information for young people and of child-centred practice across the country; and ii) oversee the dissemination of up to date research and analysis of the needs, views and development of children. 	Accept	<p>The Government agrees that working with children should be central to the operation of the family justice system and recognises the need for national leadership in this area.</p> <p>The Family Justice Board will consider how such standards and guidelines can be developed and disseminated, and how consistency of support, information and practice can be achieved. It will help disseminate relevant research and analysis on children to family justice system practitioners and wider stakeholders as appropriate.</p>

36 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
4	There should be a Young People's Board for the Family Justice Service, with a remit to consider issues in both public and private law and to report directly to the Service on areas of concern or interest.	Accept (subject to further work)	<p>The Government agrees that children and young people should be represented in any new governance arrangements that are put in place.</p> <p>The Government is currently discussing with Cafcass how its Young People's Board might best fit into the new national governance arrangements.</p>
5	The UK Government should closely monitor the effect of the Rights of Children and Young Persons Measure (Wales) 2011.	Accept	<p>The Welsh Measure contains a number of provisions that will strengthen and build on the existing rights based approach of the Welsh Government to making policy for children and young people in Wales. It places a duty on Welsh Ministers (from May 2012) to have due regard to the United Nations Convention on the Rights of the child (UNCRC) in the development of any new policy or change of existing policy, and, from May 2014, this duty will be extended to all functions of Welsh Ministers including Cafcass Cymru. As part of this, the Welsh Government is required to produce a Children's Scheme setting out the arrangements being put in place to ensure compliance with the statutory duty.</p> <p>The UK Government underlined its own commitment to the UNCRC through a Written Ministerial Statement on 6 December 2010 and will be monitoring the progress and implications of the new measures in Wales very carefully (as well as the progress of similar proposals made by the Scottish Government). This will include monitoring any effects in respect of the family justice system.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
Family Justice Service			
6, 7, 8, 9, 11	<p>A Family Justice Service should be established, sponsored by the Ministry of Justice, with strong ties at both Ministerial and official level with the Department for Education and Welsh Government. As an initial step, an Interim Board should be established, which should be given a clear remit to plan for more radical change on a defined timescale towards a Family Justice Service.</p> <p>The Family Justice Service should have strong central and local governance arrangements.</p> <p>The roles performed by the Family Justice Council will be needed in any new structure but government will need to consider how they can be exercised in a way that fits with the final design of the Family Justice Service (and Interim Board).</p> <p>The Family Justice Service should be responsible for the budgets for court social work services in England, mediation, out of court resolution services and, potentially over time, experts and solicitors for children.</p> <p>A duty should be placed on the Family Justice Service to safeguard and promote the welfare of children in discharging its functions. An annual report should set out how this duty has been met.</p>	Accept (subject to further work)	<p>The Government agrees with the Review that an interim board should be established in advance of any wider structural reform. The Family Justice Board will be established, bringing together key departments, delivery bodies, local authority representatives and the judiciary into a single forum to oversee the delivery of family justice. Its priority will be on driving improvements in the system's performance with a clear focus on greater cross-agency coherence, tackling variations in local performance and making progress against the six-month time limit for care cases.</p> <p>Local governance arrangements will be put in place, bringing together the current range of local groups into a single body to help co-ordinate local family justice systems and galvanise activity. These groups will report on their progress to the performance sub group of the national Family Justice Board which will, in turn, report on overall progress to ministers including through an annual report.</p> <p>To take forward the further consideration recommended by the Family Justice Review, the Government will also consider what further structural reform is necessary, building on the work that the Review has done. Any future body will be required to safeguard and promote the welfare of children.</p> <p>In England, Cafcass will transfer to the Ministry of Justice before the end of this Spending Review period, whilst in Wales, statutory responsibility for the provision of court social work, via Cafcass Cymru, will remain the responsibility of Welsh Ministers.</p>

38 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
			<p>The Government agrees that the roles performed by the Family Justice Council (FJC) need to be retained and will explore how the expertise of the FJC can inform the work of the Family Justice Board. The National Performance Partnership will be developed into the Performance sub-group of the Family Justice Board, enabling it to feed directly into the Board's work.</p>
10	<p>Charges to local authorities for public law applications and to local authorities and Cafcass for police checks in public and private law cases should be removed</p>	<p>Reject removal of LA fees for public law cases; Accept on police checks</p>	<p>LA fees: The Government's decision not to accept the recommendation to remove public law fees need not and should not have any impact on local authorities protecting vulnerable children. Where children might be at risk from harm, local authorities will investigate and put any cases before the courts as swiftly as possible. The Review did not find any evidence that court fees prevented local authorities from fulfilling their statutory duty.</p> <p>The approach to court fees reflects the long-standing policy that statutory fees should be set at a level that recovers the cost of the service provided, and no more. Court fees are necessary to ensure that the family courts are properly funded.</p> <p>Each year the Government provides funding to cover local authorities' costs in child protection cases, with councils given the flexibility to allocate this according to local needs. This provides greater transparency of the true cost of the services they provide and enables them to better identify where pressures may lie, which can help improve services in the long term.</p> <p>The cost of these fees has been built in as appropriate to the Spending Review settlements for 2010 for those departments affected – The Department for Communities and Local Government and the Welsh Assembly Government.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
			<p>Police checks: It is accepted Government policy that police charges should not be made to conduct safeguarding checks in private or public law cases as such checks are a core police function. In the last year the process for providing level 1 checks in private law cases has been dramatically improved by delivering these checks through police staff based in the Cafcass National Business Centre. A Home Office circular, supported by the Association of Chief Police Officers (ACPO), will be published later this year to set out how police forces will discharge their responsibility for undertaking level 2 checks without charge.</p> <p>We intend to keep under review the situation around police checks in public law. However, we do not expect local police forces to charge local authorities for information that is needed to carry out their public law duties.</p>
12, 13, 14, 15	<p>An integrated IT system should be developed for use in the Family Justice Service and wider family justice agencies. This will need investment. In the meanwhile government should conduct an urgent review of how better use could be made of existing systems.</p> <p>The Family Justice Service should develop and monitor national quality standards for system wide processes, based on local knowledge and the experiences of service users.</p>	Accept	<p>The Family Justice Board will look at what the requirements of a new IT system would be, working with the individual delivery agencies. In the interim, the Government will work now to maximise the use of existing systems and data sources.</p> <p>The Board will establish national quality standards, where appropriate, for the family justice system and will liaise with local boards in order to do so.</p> <p>The Government will take action now to assess priorities for, and fund research and evaluation into, the family justice system. The Government will also work with the Family Justice Board and new local groups to better disseminate research throughout the system.</p>

40 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
	<p>The Family Justice Service should coordinate a system wide approach to research and evaluation, supported by a dedicated research budget (amalgamated from the different bodies that currently commission research).</p> <p>The Family Justice Service should review and consider how research should be transmitted around the family justice system.</p>		
16, 17, 18, 19, 20	<p>A Vice President of the Family Division should support the President of the Family Division in his leadership role, monitoring performance across the family judiciary.</p> <p>Family Division Liaison Judges should be renamed Family Presiding Judges, reporting to the Vice President of the Family Division on performance issues in their circuit.</p> <p>Judges with leadership responsibilities should have clearer management responsibilities. There should be stronger job descriptions, detailing clear expectations of management responsibilities and inter-agency working.</p> <p>HMCTS should make information on key indicators for courts and areas available to the Family Justice Service. Information on key indicators for individual judges should be made available to those judges as well as judges with leadership responsibilities. The judiciary should agree key indicators.</p>	Accept (in part)	<p>The Government agrees with the Review on the need for an enhanced level of performance management across the family judiciary. However, after discussion with the senior judiciary, we have agreed that it is not necessary to accept the recommendation to appoint a Vice President of the Family Division, nor is there a need to rename the role currently fulfilled by the Family Division Liaison Judges. Instead the judiciary will deliver any necessary leadership changes within the existing legislative framework.</p> <p>The Government will need to work with the judiciary, including the judge in charge of modernisation of family justice, to define clearly what the implications are for the management structures of the family judiciary and what support mechanisms will need to be provided to ensure that any changes result in measurable improvements to local and regional performance.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
Judicial leadership and culture			
	Designated Family Judges should have leadership responsibility for all courts within their area. They will need to work closely with Justices' Clerks, family bench chairmen and judicial colleagues.		<p>Work is already underway, through the Judicial Office, to formulate consistent job descriptions which will ensure that there is a clear understanding of the roles and responsibilities of the various levels of the family judiciary. We support this approach and believe that it begins to address the Review's recommendations for increased regional and national consistency.</p> <p>From January 2012, MoJ will publish a range of statistics, court-by-court, which will provide those involved in the delivery of family justice services and the public with information on the volume of cases dealt with in the family courts and the time taken to deal with care proceedings cases. Whilst we see merit in the Review's recommendation to establish an indicator set that will assist the judiciary to fulfil the performance management role, further work will need to be undertaken to investigate how this could be achieved without adding significantly to data collection burdens, as there are known limitations in how current IT systems record information in the family courts.</p>
21, 22, 23, 24	<p>The judiciary should aim to ensure judicial continuity in all family cases.</p> <p>The judiciary should ensure a condition to undertake family work includes willingness to adapt work patterns to be able to offer continuity</p> <p>The President of the Family Division should consider what steps should be taken to allow judicial continuity to be achieved in the High Court.</p>	Accept	<p>The Government agrees with the Review's analysis that judicial continuity is a facilitator for effective case management. Allocating judges and legal advisers to cases where they are familiar with the substantive issues in the case, and where they retain responsibility for the key case management decisions that are taken, will improve effective case management and help to reduce delay. The Government also accepts that from the perspective of children and families, particularly litigants in person, who are dealing with an unfamiliar court process, judicial continuity can build confidence and provide consistency at a difficult time.</p>

42 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
	<p>In Family Proceedings Courts judicial continuity should if possible be provided by all members of the bench and the legal adviser. If this is not possible, the same bench chair, a bench member and a legal adviser should provide continuity.</p>		<p>Judicial continuity is widely acknowledged as an essential component of effective case management, and in relation to care and supervision proceedings <i>Practice Direction 12 A Public Law Proceedings Guide to Case Management: April 2010</i> currently sets out an expectation that each case will be allocated to one or not more than two case management judges (in the case of magistrates' courts case managers), who will be responsible for every case management stage in the proceedings through to the Final Hearing and, in relation to the High Court or county court, one of whom may be – and where possible should be – the judge who will conduct the Final Hearing.</p> <p>The President of the Family Division has recently issued guidance, approved by the Lord Chief Justice, to emphasise the importance of judicial continuity and provide practical advice on how it can best be achieved. As a first step, Government will work with the Judicial Office and HMCTS to further promote the existing guidance on achieving continuity in the family courts.</p> <p>The Government believes that the Review's recommendations therefore provide impetus to implement current guidance and aspirations for judicial continuity and to tackle the challenges that remain. There will be a need to examine closely, and where appropriate to change, the work patterns of some judges and legal advisers. This should include looking at the High Court circuit system. There will also be a need to consider practical difficulties such as low volumes of cases in some small courts and the requirements of larger centres such as the Principal Registry of the Family Division.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
			<p>From an administrative perspective, achieving continuity is likely to require the judiciary, with the support of HMCTS, to adjust local and circuit listing practices. It will also need to be a key consideration in the HMCTS review of legal structures and the review of its court estate, which forms part of the HMCTS Future Operating Blueprint.</p>
25, 26, 27	<p>Judges and magistrates should be enabled and encouraged to specialise in family matters.</p> <p>The Judicial Appointments Commission should consider willingness to specialise in family matters in making appointments to the family judiciary.</p> <p>The Judicial Office should review the restriction on magistrate sitting days.</p>	Accept	<p>The Government agrees with the Review's analysis that enabling and encouraging specialisation in family matters will improve judicial continuity and create a more experienced family judiciary. The President of the Family Division has said that he favours a more specialist bench and that consideration should be given to the merits of setting a minimum sitting requirement for family ticketed judiciary.</p> <p>The Government will work with the Judicial Appointments Commission to identify and remove any barriers to prospective appointees to the judiciary wishing to specialise, but this will need to be balanced by the need to retain the business flexibility that is inherent in the appointment of a judge that is able to sit in more than one jurisdiction.</p> <p>The Government will review processes in relation to managing magistrates' sittings days and the current system of writing to magistrates who go over the recommended maximum threshold.</p> <p>The Government agrees that those willing to sit extra days to accommodate family cases should not be discouraged from doing so due to an arbitrary threshold. The Government will consider with the Judicial Office how such processes can be refined at the earliest opportunity.</p>
Case management			
28	[see recommendation 72]		

44 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
The courts			
29, 30, 32, 33	<p>A single family court, with a single point of entry, should replace the current three tiers of court. All levels of family judiciary (including magistrates) should sit in the family court and work should be allocated according to case complexity.</p> <p>The roles of District Judges working in the family court should be aligned.</p> <p>The Family Division of the High Court should remain, with exclusive jurisdiction over cases involving the inherent jurisdiction and international work that has been prescribed by the President of the Family Division as being reserved to it.</p> <p>All other matters should be heard in the single family court, with High Court judges sitting in that court to hear the most complex cases and issues.</p>	Accept	<p>The Government agrees with the Review on the benefits of clarifying and simplifying the family courts, and making their operation more transparent, by establishing a single Family Court for England and Wales. The Government also accepts the need to preserve the High Court's status in relation to its international work, and its inherent jurisdiction.</p> <p>It is the Government's intention that proceedings in the Family Court should be allocated to the appropriate level of judiciary based on factors such as case type and complexity. The Government accepts that there is scope to align the roles of the three different types of District Judge, although, as the Review recognises, this alignment will need to preserve the status and experience of District Judges of the Principal Registry of the Family Division.</p> <p>The creation of a single family court will facilitate wider reforms to enable the more efficient use of court resources, and more effective administration of proceedings.</p>
31	<p>There should be flexibility for legal advisers to conduct work to support judges across the family court.</p>	Accept	<p>The Government agrees that there is scope for legal advisers, who currently work only in the magistrates' courts, to take on some of the judiciary's quasi-administrative functions across the whole of the Family Court once it is established.</p> <p>Examples of the type of work that could be delegated include: the gate keeper function (which would determine before whom most cases would be heard); certain procedural orders which are uncontroversial or agreed; and uncontested divorce proceedings. Detailed proposals will be developed separately.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
34, 35, 36, 37	<p>HMCTS and the judiciary should ensure routine hearings use telephone or video technology wherever appropriate.</p> <p>HMCTS and the judiciary should consider the use of alternative locations for hearings that do not need to take place in a court room.</p> <p>HMCTS should ensure court buildings are as family friendly as possible.</p> <p>HMCTS should review the estate for family courts to reduce the number of buildings in which cases are heard, to promote efficiency, judicial continuity and specialisation. Exceptions should be made for rural areas where transport is poor.</p>	Accept	<p>These recommendations are in line with HMCTS future strategy to transform the delivery of services, including the hearing estate presence. The aim is to achieve an estate of appropriate capacity to meet business need, which is also efficient and less costly to run.</p> <p>HMCTS is removing non-judicial, back office processing functions from courts and tribunals to rationalise their estate and develop a network of modern hearing centres which can operate flexibly to accommodate different workloads and customer demands.</p> <p>The Government agrees that hearings that do not need to take place in a courtroom can be conducted in less formal, more family-friendly rooms. The flexibility in HMCTS future hearing estate will support this.</p>
38	<p>HMCTS and the judiciary should review the operation and arrangement of the family courts in London.</p>	Accept	<p>The Government has accepted the Review's recommendations on the creation of the single Family Court. The Government acknowledges that this raises longer term questions about the future role of the Principal Registry of the Family Division within the Family Court, and agrees that it should be reviewed by the Family Business Authority at the earliest possible opportunity.</p>

46 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
Workforce			
39, 40	<p>The Family Justice Service should develop a workforce strategy.</p> <p>The Family Justice Service should develop an agreed set of core skills and knowledge for family justice.</p>	Accept	<p>The Government agrees that a workforce strategy will be a key tool for setting out a vision for how workforce reform will be delivered across the family justice system. It will be the first time a long term plan for the training and development of the family justice workforce has been produced and the Government supports the view that it will enhance the way the professions work together to provide an efficient service for children, young people and families. The Government aims to have this in place by April 2013.</p> <p>The Government agrees that building consensus amongst the relevant professional bodies and employers, who will be responsible for delivering major elements of reform, will be essential. The Government will need to work with those partners to:</p> <ul style="list-style-type: none"> ● develop the Review's thoughts on an agreed statement of the core skills and knowledge expected of family justice professionals; ● agree the immediate and long term training and development priorities for the workforce, ensuring these are aligned with existing strategies such as the reform programmes currently underway for the social work profession in England and Wales; and ● formulate a plan for increasing inter-disciplinary learning opportunities, so as to facilitate better dialogue and greater learning opportunities between professionals.

No	Family Justice Review Recommendation	Accept/Reject	Reason
41, 42, 43, 56	<p>The Family Justice Service should introduce an inter-disciplinary family justice induction course.</p> <p>Professional bodies should review continuing professional development schemes to ensure their adequacy and suitability in relation to family justice.</p> <p>The Family Justice Service should develop annual inter-disciplinary training priorities for the workforce to guide the content of inter-disciplinary training locally.</p> <p>Solicitors' professional bodies, working with representative groups for expert witnesses, should provide training opportunities for solicitors on how to draft effective instructions for expert evidence.</p>	Accept (further work required with professional bodies)	<p>The Government accepts that there is a case for providing a family justice induction for all professionals new to working within the system. However the Government will need to explore the various options for delivery with those working within the system to ensure that the most appropriate and proportionate approach is adopted. The detailed content of this induction will be inherently linked to the development of the core skills and knowledge framework and the training and development priorities set out in the workforce strategy. Therefore further work will be required to flesh out the detail of this proposal.</p> <p>The Government has taken initial soundings from the Law Society and has agreed to identify opportunities to address the Review's concerns, through consultation with the profession and experts groups to determine how best to improve the quality of instructions to expert witnesses. This recommendation will need to be looked at in tandem with the Review's recommendation that judges should set out in a court order the questions on which expert witnesses should focus (see also recommendations 81, 82 and 84).</p> <p>As the Review acknowledges, several professional bodies including the Bar are already undertaking a review of current CPD requirements. It will be for those professional bodies to consider the Review's recommendation but the Government will work with those bodies to agree an approach to continual learning as part of the establishment of a family justice workforce strategy.</p>

48 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
44	The Family Justice Service should establish a pilot in which judges and magistrates would learn the outcomes for children and families on whom they have adjudicated.	Accept (in principle)	The Government agrees with this recommendation in principle – currently there is little feedback available to judges once a case leaves court and a mechanism such as this could provide structured feedback on the long term outcomes of the decisions which are taken.
45	There should be a system of case reviews of process to help establish reflective practice in the family justice system.	Accept (in principle, subject to further work)	<p>The Government agrees that a forum for systematic review of certain cases would be beneficial, in principle. The Government proposes that a small-scale pilot is likely to be the best way to test the benefits and assess the resource and time implications for those involved. The Government will need to work with delivery agencies and the judiciary to identify the scope of the pilot in relation to types of cases, aims and objectives, who will be involved and in developing measures of success.</p> <p>The recommendation is in line with the Munro Review of child protection in England which recommends continuous learning, reflective practice and increased co-operation amongst agencies; and, the Welsh Government’s proposals to introduce a new Child Practice Review framework, to replace Serious Case Reviews, which will provide more effective arrangements to ensure that practitioners from all agencies learn from experience and which will inform more robust child protection and safeguarding arrangements.</p>
46, 47, 48, 49, 50, 54, 55, 67	<p>The Judicial College should review training delivery to determine the merits of providing a core judicial skills course for all new members of the judiciary.</p> <p>The Judicial College should develop training to assist senior judges with carrying out their leadership responsibilities.</p>	Accept (in principle, subject to further work)	The welfare, training and guidance of the judiciary is the responsibility of the Lord Chief Justice, within the resources made available by the Lord Chancellor. Therefore the Ministry of Justice will work in partnership with the Judicial Office to review current training programmes, to ensure that the areas identified by the Review are adequately provided for in judicial training.

No	Family Justice Review Recommendation	Accept/Reject	Reason
	<p>The Judicial College should ensure judicial training for family work includes greater emphasis on child development and case management.</p> <p>The Judicial College should ensure induction training for the family judiciary includes visits to relevant agencies involved in the system.</p> <p>There should be an expectation that all members of the local judiciary, including the lay bench and legal advisers involved in family work, should join together in training activities.</p> <p>The Judicial College should ensure induction training for new family magistrates includes greater focus on case management, child development and visits to other agencies involved in the system.</p> <p>The Judicial College should ensure legal advisers receive focused training on case management.</p> <p>Different courts take different approaches to case management in public law. These need coralling, researching and promulgating by the judiciary to share best practice and ensure consistency.</p>		<p>The Government has taken initial soundings from the Judicial College about those recommendations that refer specifically to training that might be delivered to the family judiciary through the Judicial College. The Judicial College has confirmed that an important element of the Judicial College strategy is to identify areas of knowledge and expertise that are common to all Judicial Office holders and to then design and deliver these as training programmes at both induction and continuation and this has already commenced.</p> <p>The Judicial College already delivers training on those areas where training is recommended for judges, magistrates and legal advisers (e.g. case management, child development, and the limitation of experts) and further consideration will be given to building on these existing elements.</p> <p>Further work will be undertaken to determine the full extent of the training need to support implementation of the overall FJR reform package and the resources required to deliver this. The Judicial College would, subject to the provision of necessary resources where appropriate, be able to provide the required training and could incorporate aspects such as active case management, child development, the proper use of experts, the newly-suggested boundary between court and local authority, and the newly proposed six-month time limit for the conclusion of care proceedings. A national training programme might also help address the concerns relating to inconsistent application of the Public Law Outline.</p>

50 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
			<p>The Judicial College recognises leadership and management training as a prospective element of judicial training. It will be for the senior judiciary to consider this recommendation further but, should this be identified as a training priority, then the College stands ready to respond, and those involved with family work would of course be included.</p> <p>The Judicial College will work with delivery agencies to consider how best to facilitate judicial visits to the work settings of delivery agencies as part of a revised induction programme.</p> <p>Further opportunities to engage the judiciary and magistracy in training opportunities will be considered through the development of the workforce strategy.</p>
51, 52, 53	<p>The President's annual conference should be followed by circuit level meetings between Family Presiding Judges and the senior judiciary in their area to discuss the delivery of family business.</p> <p>Designated Family Judges should undertake regular meetings with the judges for whom they have leadership responsibility.</p> <p>Judges should be encouraged and given the skills to provide each other with greater peer support.</p>		<p>The President of the Family Division has issued guidance to Designated Family Judges via a formal job description setting out the key responsibilities of the role, and has indicated he will continue to consider how judicial leadership roles can be enhanced, in conjunction with his senior colleagues across the jurisdictions.</p>
56	[see recommendation 41]		

No	Family Justice Review Recommendation	Accept/Reject	Reason
57, 58, 59	<p>The College of Social Work and Care Council for Wales should consider issuing guidance to employers and higher education institutions on the teaching of court skills, including how to provide high quality assessments that set out a clear narrative of the child's story.</p> <p>The College of Social Work and Care Council for Wales should consider with employers whether initial social work and post qualifying training includes enough focus on child development, for those social workers who wish to go on to work with children.</p> <p>The Children's Improvement Board should consider what training and work experience is appropriate for Directors of Children's Services (DCS) who have not practised as social workers.</p>	Accept	<p>The courts play a critical role within the safeguarding process. The Government agrees that court-related skills need to be more prominent in both initial and continuing social work training.</p> <p>Implementation will be discussed and developed with the College of Social Work and as part of the wider plans for implementing Munro and with the Care Council in taking forward <i>Sustainable Social Services for Wales</i>.</p> <p>The proposed new guidance on the role of the DCS in England (currently subject to consultation) would be the right vehicle to underline the general responsibility which DCSs have for social care input to the courts. In addition, subject to negotiation with the Association of Directors of Children's Services (ADCS), a programme of work to support court skills development could also be pursued through arrangements being put in place for training for DCSs from 2012 onwards.</p> <p>In Wales, through the Association of Directors of Social Services (ADSS) we would also look to build on the implementation of the national training programme on evidence based assessment tools, analysis and planning with children and families.</p> <p>The Children's Improvement Board has committed to prioritise the Family Justice Review (along with adoption and work linked to Munro) in the programmes of work it takes forward on behalf of ADCS from April 2012 onwards.</p>

52 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
<p>Public Law The role of the court</p>			
<p>60, 61, 62</p>	<p>Courts must continue to play a central role in public law in England and Wales.</p> <p>Courts should re-focus on the core issues of whether the child is to live with parents, other family or friends, or be removed to the care of the local authority.</p> <p>When determining whether a care order is in a child's best interests the court will not normally need to scrutinise the full detail of the local authority care plan for a child. Instead the court should consider only the core or essential components of a child's plan. We propose that these are:</p> <ul style="list-style-type: none"> ● planned return of the child to their family; ● a plan to place (or explore placing) a child with family or friends; ● alternative care arrangements; and ● contact with birth family to the extent of deciding whether that should be regular, limited or none. 	<p>Accept</p>	<p>The Government agrees that it is important that the courts continue to consider the core elements of children's care plans before making care orders. Where an issue of detail is critical to deciding who should care for the child, the courts should also continue to be able fully to consider and debate this.</p> <p>However, the detail of care plans often changes over time in response to children's changing needs and, in the majority of cases, it makes sense for the detail to be left to the local authority which has the ongoing responsibility for the plan. The Government accepts this recommendation and will bring forward legislation to make this distinction between the role of the courts and local authorities in children's care plans clear.</p> <p>Ongoing work to strengthen the quality of local authority care planning and social care practice more generally will be important in supporting this proposed change. Extensive work has already been set in train as part of the Government's programme of social care workforce reform and linked to the Munro Review and <i>Sustainable Social Services for Wales</i>. However, as indicated in other recommendation responses, to complement this, the Government will work with sector partners on the development of more targeted training for social workers. It will continue to promote the enhanced role of the local authority Independent Reviewing Officer in scrutinising care plans. The Government believes that ongoing work to provide greater confidence in the scrutiny role of the Independent Reviewing Officers (IROs) in England (see recommendations 78, 79 and 80) will be particularly important.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
63	Government should consult on whether section 34 of the Children Act 1989 should be amended to promote reasonable contact with siblings, and to allow siblings to apply for contact orders without leave of the court.	Accept (in part)	<p>The Government recognises that there can be problems with sibling contact. Ensuring children in care maintain contact with siblings is important where it is clear the contact is in their best interests. But there is already clear legislative provision in the Children Act 1989 and the recent Care Planning, Placement and Case Review Regulations to address this.</p> <p>The Government has given a renewed focus to Children in Care. On 31st October 2011³⁷ the Prime Minister set out his commitment to transform the care system and to improve chances for vulnerable children. The issue of how to improve contact between siblings will form an important part of the discussions on how to improve the care system. We will also be working with stakeholders, such as the Association of Director of Children's Services, and Children in Care Councils, to ensure that frontline practitioners are aware of their legal responsibilities and rights with regards to sibling contact, and to spread best practice to all areas of the country.</p> <p>In Wales, improving the safeguarding and welfare of children and young people, improving the care system and supporting complex families, are central to our framework for a <i>Sustainable Social Services</i> in Wales.</p>

37 <http://www.number10.gov.uk/news/pm-launches-adopting-and-fostering-campaign/>

54 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
The relationship between courts and local authorities			
64, 65, 66	<p>There should be a dialogue both nationally and locally between the judiciary and local authorities. The Family Justice Service should facilitate this. Designated Family Judges and the Director of Children's Services / Director of Social Services should meet regularly to discuss issues.</p> <p>Local authorities and the judiciary need to debate the variability of local authority practice in relation to threshold decisions and when they trigger care applications. This again requires discussion at national and local level. Government should support these discussions through a continuing programme of analysis and research.</p> <p>The revised Working Together and relevant Welsh guidance should emphasise the importance of the child's timescales and the appropriate use of proceedings in planning for children and in structured child protection activity.</p>	Accept	<p>There is good evidence of the benefits of regular dialogue and joint learning between the judiciary and local authorities. The Government will lend support to the Association of Directors of Children's Services in England and the Association of Directors of Social Services in Wales and the President of the Family Division in implementing these recommendations.</p> <p>The Government agrees there would be merit in highlighting the importance of the child's timescales in revised <i>Working Together</i> guidance or equivalent in Wales, though this will have to reflect the priority also being given to producing a pared and less prescriptive approach.</p>
Case management			
67	[see recommendation 46]		

No	Family Justice Review Recommendation	Accept/Reject	Reason
68, 69, 70, 71	<p>Government should legislate to provide a power to set a time limit on care proceedings. The limit should be specified in secondary legislation to provide flexibility. There should be transitional provisions.</p> <p>The time limit for the completion of care and supervision proceedings should be set at six months.</p> <p>To achieve the time limit would be the responsibility of the trial judge. Extensions to the six-month time limit will be allowed only by exception. A trial judge proposing to extend a case beyond six months would need to seek the agreement of the relevant Designated Family Judge/ Family Presiding Judge as appropriate.</p> <p>Judges must set firm timetables for cases. Timetabling and case management decisions must be child focused and made with explicit reference to the child's needs and timescales. There is a strong case for this responsibility to be recognised explicitly in primary legislation.</p>	Accept (in part)	<p>The Government agrees that cases must progress in timescales that are in line with the child's needs and we support the Panel's recommendation. Adding an expected time limit into legislation would send a clear and unambiguous signal to all parts of the system that extensive delays are unacceptable. Changes to guidance and other initiatives have not succeeded in reducing the delays, nor prevented them from increasing. Setting a clear goal of this kind will provide the focus that is needed. The Government therefore accepts the recommendation and will bring forward legislation to pave the way for the time limit at the earliest opportunity.</p> <p>The Review recognised, however, that the achievement of a six-month time limit could not happen immediately. Detailed work will be needed to consider transitional arrangements in order to ascertain how quickly the time limit could be met.</p> <p>The facility for judges to extend cases where the needs of children demand it would allow judges discretion in exceptional cases. The Government believes this is essential to ensure there is no conflict with the principle that children's needs must always be considered. Further work will be undertaken to develop the processes and grounds for extending cases.</p> <p>However, the Panel's proposal that extensions beyond the time limit should be agreed by a senior judge would encroach on judicial independence and may create further delay. For these reasons, the Government does not accept this part of the Panel's recommendation, but to ensure that there is transparency about any decision to extend a case beyond the six-month time limit and that the proportion of cases requiring extensions can be kept under review, the reasons for the extension will be recorded and stated in court.</p>

56 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
72, 73, 76, 28	<p>The Public Law Outline provides a solid basis for child focused case management. Inconsistency in its implementation across courts is not acceptable and we encourage the senior judiciary to insist that all courts follow it.</p> <p>The Public Law Outline will need to be remodelled to accommodate the implementation of time limits in cases. The judiciary should consult widely with all stakeholders to inform this remodelling. New approaches should be tested as part of this process.</p> <p>The judiciary led by the President's office and local authorities via their representative bodies should urgently debate what standards should be set for court documentation, and should circulate examples of best practice.</p> <p>HMCTS and the judiciary should review and plan how to deliver effective case management consistently in the courts.</p>	Accept (with agreement of President and senior family judiciary)	<p>The Government agrees with the Review on the need for increased effectiveness in progression of cases through the court system. Effective judicial case management is already acknowledged as being of key importance to successfully keeping delay to a minimum and HMCTS is working to increase case progression support for the judiciary where resources are available to do so.</p> <p>The Government is in agreement with the President of the Family Division, that if applied properly, the PLO is the key management tool for the judiciary to tackle delay. However, there is acknowledgement that the PLO is not embedded on a consistent regional or national basis. The Government is, therefore, pleased that the Review's recommendations support actions to address this, and we will work with the President to continue to drive up adherence.</p> <p>The Government agrees that any revision to the PLO to reflect a six-month time limit should be predicated on consulting with key stakeholders, to ensure that the processes involved, including those for extending cases beyond the time limit, are developed in a way that takes into account the views of the judiciary and family justice professionals. The Government will work with the Family Procedure Rules Committee once the legislative framework for the FJR reforms is clearer.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
74	The requirement to renew Interim Care Orders (ICOs) after eight weeks and then every four weeks should be amended. Judges should be allowed discretion to grant interim orders for the time they see fit subject to a maximum of six months and not beyond the time limit for the case. The court's power to renew should be tied to their power to extend proceedings beyond the time limit.	Accept	<p>This proposal for change would help remove an unnecessary restriction on judges' ability to set ICOs for a time period appropriate to the case and the needs of the child; it would also remove unnecessary additional hearings and administrative and court processes. The measure may not, of itself, reduce delay but, by freeing up administrative resource, it should help ensure that resources within the system can be used to better effect.</p> <p>It is envisaged that the change would allow the judge to set the length and renewal requirements for the ICO focused on the needs of the child up to a maximum of six months (to fit with the Review's time limit proposal). The Government will seek to legislate on this issue at the earliest opportunity.</p>
75	The requirement that local authority adoption panels should consider the suitability for adoption of a child whose case is before the court should be removed.	Accept	<p>Evidence from the Family Justice Review consultations confirms that children's cases can be delayed while waiting for adoption panels to give their views. Delay can be particularly detrimental to children's prospects for adoption and, given the independent scrutiny of all the evidence which the courts must exercise in any case, the Government accepts the Review's argument for making this change so that the risk of additional delay is removed.</p> <p>Implementation of the change would be through an amendment to the Adoption Agencies Regulations 2005 and Adoption Agencies (Wales) Regulations 2005.</p>

58 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
Local authority practice			
77, 94, 97	<p>We encourage use of the Letter Before Proceedings. We recommend that its operation be reviewed once research is available about its impact.</p> <p>The benefits of Family Group Conferences should be more widely recognised and their use should be considered before proceedings. More research is needed on how they can best be used, their benefits and the cost.</p> <p>Proposals should be developed to pilot new approaches to supporting parents through and after proceedings.</p>	Accept (in principle, subject to outcomes of research currently underway on the letter before proceedings and further work on existing models of parenting support)	<p>A research study on the operation and impact of local authority pre-proceedings processes, including the letter before proceedings, is expected to be published in 2012. The Government will consider the findings of this study when they become available.</p> <p>Family Group Conferences (FGCs) are used by local authorities in a variety of different ways. The Government agrees there would be benefits in research to explore what particular features of FGCs offer the greatest benefits in the context of care proceedings. This could be considered as part of the wider programme of Family Justice Review related research.</p> <p>On parenting support post-proceedings, the Government agrees that there is more to be done. Where there are complex parental needs, there are already evidence-based multi-disciplinary interventions on which LAs can draw. The key issue is to ensure these are more widely known and used and this will be taken forward, in discussion and collaboration with the sector, as part of the wider package of court-related social care development and training proposed in this response.</p> <p>Other less intensive forms of parental support have been developed and offered through the voluntary and community sector. The evidence base on these is less clear and the Government will need to look into this. Further piloting may prove worthwhile but we need to consider the evidence first. There are also associated developments on programmes to support parents in Wales.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
78, 79, 80	<p>Local authorities should review the operation of their Independent Reviewing Officer service to ensure that it is effective. In particular they should ensure that they are adhering to guidance regarding case loads.</p> <p>The Director of Children's Services / Director of Social Services and Lead Member for Children should receive regular reports from the IRO on the work undertaken and its outcomes. Local Safeguarding Children Boards should consider such reports.</p> <p>There need to be effective links between the courts and IROs and the working relationship between the guardian and the IRO needs to be stronger.</p>	Accept	<p>The Government agrees with the thrust of these proposals – they are entirely consistent with recently revised guidance on the Independent Reviewing Officers' role in England. They will help provide further impetus to the Government's existing objectives in this area.</p> <p>The Government will look to implement the proposals by expanding/building on the existing programme of good practice development, working in collaboration with the sector.</p>

60 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
Expert witnesses			
81, 82, 84	<p>Primary legislation should reinforce that in commissioning an expert's report regard must be had to the impact of delay on the welfare of the child. It should also assert that expert testimony should be commissioned only where necessary to resolve the case. The Family Procedure Rules would need to be amended to reflect the primary legislation.</p> <p>The court should seek material from an expert witness only when that information is not available, and cannot properly be made available, from parties already involved. Independent social workers should be employed only exceptionally.</p> <p>Judges should direct the process of agreeing and instructing expert witnesses as a fundamental part of their responsibility for case management. Judges should set out in the order giving permission for the commissioning of the expert witness the questions on which the expert witness should focus.</p>	Accept	<p>The Government agrees with the Review's assessment that in too many cases experts are commissioned to provide assessments which add little value to proceedings and introduce unnecessary delay. The Government therefore accepts the Review's recommendations.</p> <p>Legislation will be introduced at the earliest opportunity which requires courts to have regard to the impact of delay on the child, and whether they can obtain information from parties already involved, when commissioning expert evidence in family proceedings.</p> <p>That legislation will consolidate and build upon requirements contained in the Family Procedure Rules and existing guidance.</p> <p>In the meantime the Government will ask the Family Procedure Rules Committee to review the current Rules and supporting guidance, to identify whether further amendments are also necessary in these areas to support the Review's recommendations.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
83, 86, 87	<p>Research should be commissioned to examine the value of residential assessments of parents.</p> <p>The Legal Services Commission should routinely collate data on experts per case, type of expert, time taken, cost and any other relevant factor. This should be gathered by court and area.</p> <p>We recommend that studies of the expert witness reports supplied by various professions be commissioned by the Family Justice Service.</p>	Accept (in principle, subject to funding)	<p>The Government accepts the Review's criticisms about the quality of information available to inform policy making. The Government accepts the need for further and better research in this area, including on the quality of expert reports, and the value of residential parenting assessments compared to other forms of assessment.</p> <p>The Legal Services Commission is introducing a new case management system, which has been designed to collect a much wider range of data on experts funded through legal aid. Under current plans, it would not be able to report on the use of experts by courts.</p>
85, 88	<p>The Family Justice Service should take responsibility for work with the Department for Health and others as necessary to improve the quality and supply of expert witness services. This will involve piloting new ideas, sharing best practice and reviewing quality.</p> <p>Agreed quality standards for expert witnesses in the family courts should be developed by the Family Justice Service.</p>	Accept	<p>The Government accepts the Review's concerns about the quality of reports provided to the courts by expert witnesses, and the lack of agreed quality standards. The Government agrees that it should take the lead in developing appropriate standards.</p> <p>The Government will need to develop the quality standards in consultation with the Legal Services Commission and local authorities, as well as expert groups themselves. Many experts commissioned in public law family proceedings are medical professionals, and the National Health Service will therefore also have an important contribution to make.</p> <p>In the longer term, the future of this work should be determined as part of the review of the future structure and governance of the family justice system, once the reform programme is substantially implemented.</p>

62 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
89	A further pilot of multi-disciplinary expert witness teams should be taken forward, building on lessons from the original pilot.	Accept	<p>The Government agrees that the broad approach tested in the multi-disciplinary team pilot offers the potential for maintaining an effective supply of appropriately qualified experts, reducing delays in proceedings and delivering better overall value for money. Nevertheless the Government acknowledges the weaknesses in the approach adopted during the initial pilot, and welcome the Review's recommendations for addressing them.</p> <p>For these reasons, the Government accepts the Review's recommendation to undertake a fresh pilot of the multi-disciplinary team approach, with work starting in 2012.</p>
90	The Family Justice Service should review the mechanisms available to remunerate expert witnesses, and should in due course reconsider whether experts could be paid directly.	Accept	<p>Under the current arrangements, the Legal Services Commission (LSC) contracts with solicitors for the provision of legally aided services. It is the solicitor, rather than the LSC, who instructs and enters into a contract with the expert witness, and who is responsible, among other matters, for their payment. Nevertheless, the LSC's standard terms require solicitors to make prompt payment of disbursements and, in the short term, the Government will consider with the LSC what further steps can be taken to ensure that these contractual obligations are satisfied.</p> <p>In the longer term, the Government will consider whether it would be appropriate for the LSC to contract with, and pay, experts directly, rather than through solicitors. In doing so, we will need to take into account the results of the multi-disciplinary team pilot, alongside the other measures set out to improve the quality of experts in care proceedings, and the impact of wider reforms to the delivery of legal services.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
Representation of children			
91	The tandem model should be retained with resources carefully prioritised and allocated.	Accept	<p>The Government agrees that the tandem model remains an important vehicle for ensuring that children’s wishes, needs and feelings can be understood and independently represented within the court.</p> <p>The Government also agrees that court social work services must be managed efficiently and that their input has to be appropriate to the needs of the case in order to ensure the proper representation of all children in relevant family proceedings.</p> <p>The Review has set out what it considers to be the key elements of a proportionate approach. Taking account of these views, and in collaboration with Cafcass, Cafcass Cymru and the judiciary, the Government will consider what further action can be taken to ensure the tandem model is applied optimally, within the limits of the available resources and in accordance with the Public Law Outline. It is essential the courts receive good quality advice and that all children receive the support and representation to which they are entitled.</p>

64 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
92	The merit of using guardians pre-proceedings needs to be considered further.	Accept	<p>The Government agrees with this recommendation. The Cafcass pre-proceedings pilot which is currently under way could yield not only valuable insights into how collaboration can help strengthen local authorities' pre-proceedings work but also important learning for Cafcass Family Court Advisers, Cafcass Cymru and the system as a whole on how work to represent the needs and wishes of children can be made more effective.</p> <p>A final evaluation of the pilot, which runs to May 2012, will be available by summer 2012. The Government will, at that point, consider how the findings might be built on. The Government will continue to monitor progress in the interim, ensuring early learning is fed into related work on social care practice and the development of the tandem model which are covered elsewhere in this response.</p>
93	The merit of developing an in-house tandem model needs to be considered further. The effects on the availability of solicitors locally to represent parents should be a particular factor.	Accept (in principle, but need to consider carefully the potential impacts on local legal market and legal aid contracting issues)	<p>The Government agrees it would be worthwhile to consider piloting this, given that this model has operated well in respect of High Court cases. However, it will be important that proper account is taken of the potential impact on local legal markets and that legal aid contracting issues are carefully considered.</p> <p>The Government will assess the feasibility of any pilot and its potential timescale by Summer 2012, once the position on contracting and tendering for legal aid contracts is clearer, subject to Parliament's approval of and Royal Assent to the Legal Aid, Sentencing and Punishment of Offenders Bill in April 2012.</p>
Alternatives to conventional court proceedings			
94, 97	[see recommendation 77]		

No	Family Justice Review Recommendation	Accept/Reject	Reason
95	A pilot on the use of formal mediation approaches in public law proceedings should be established.	Accept	The Government will identify areas in which formal mediation is currently used in public law proceedings and work with the Family Mediation Council, HMCTS, the Legal Services Commission, local authorities in England and Wales, Cafcass, Cafcass Cymru and other organisations with an interest to develop options for undertaking a pilot. Careful consideration will be given to when mediation may be appropriate in these types of cases.
96	The Family Drug and Alcohol court in Inner London Family Proceedings Court shows considerable promise. There should be further limited roll out to continue to develop the evidence base.	Needs further work	We agree that the Family Drug and Alcohol Court approach shows promise. Further roll-out will be considered in light of the ongoing evaluation of the London pilot and will depend on finding a sustainable funding model for the programme.
Private Law Making parental responsibility work			
98	Government should find means of strengthening the importance of a good understanding of parental responsibility in information it gives to parents.	Accept (subject to further work)	<p>The Government recognises that parents are not always aware of the concept or significance of parental responsibility, nor of the adverse impact on children of prolonged parental conflict.</p> <p>A greater understanding of a parent's responsibilities in law towards a child, and of the importance of focusing on a child's emotional and practical needs, would support wider efforts to help separated parents reach agreement themselves about care arrangements for their children, without recourse to court.</p> <p>The Government will therefore consider how best to raise awareness of parental responsibility and to support parents in focusing on their child's needs, both in terms of timing and channels of communication.</p>

66 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
99	No legislation should be introduced that creates or risks creating the perception that there is a parental right to substantially shared or equal time for both parents.	Further consideration needed	<p>The Government fully support the Review's view that the vast majority of children benefit from a continuing relationship with both parents, and that shared parenting should be encouraged where this is in the child's best interests and is safe.</p> <p>The Review's proposals for better parental education, information and access to dispute resolution services should support this objective.</p> <p>The Government recognises the careful consideration given by the Review to the role of legislation in supporting shared parenting through a change in parental attitudes, underlined by a clear message that the courts will expect both parents to be involved in a child's upbringing, unless there are exceptional reasons why this is not possible. We are particularly aware of the recent experience in Australia of shared parenting legislation and the difficulties that can arise.</p> <p>On careful reflection, the UK Government believes that legislation may have a role to play in supporting shared parenting and will consider legislative options for encouraging both parents to play as full a role as possible in their children's upbringing. In developing proposals, we will take particular account of the need to avoid the pitfalls which were evident from the operation of legislation in Australia.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
100	The need for grandparents to apply for leave of the court before making an application for contact should remain.	Accept	<p>Currently, when grandparents are required to apply for the court's permission to start proceedings, and permission is granted, only one court fee is payable. The Government thinks this is reasonable.</p> <p>The Government agrees with the Review's conclusions that the leave requirement should remain because it acts as an important safeguard for children and their families. This is consistent with the principle that the court's paramount consideration must be the welfare of the child.</p> <p>However, the Government is committed to ensuring that children have meaningful relationships with family members who are important to them following family separation, where it is in their best interests and safe. As a matter of good practice, supporting a child's ongoing relationships with their grandparents and wider family members should be considered when making arrangements for a child's future.</p> <p>The Government supports the Review's recommendation that the importance of relationships children have with other family members should be emphasised in the process of making Parenting Agreements. The Government will also ensure that a child's relationship with their grandparents is considered in the bespoke parenting classes for separating parents.</p>

68 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
101, 102	<p>Parents should be encouraged to develop a Parenting Agreement to set out arrangements for the care of their children post-separation.</p> <p>Government and the judiciary should consider how a signed Parenting Agreement could have evidential weight in any subsequent parental dispute.</p>	Accept	<p>Proceedings to resolve family disputes can be lengthy and, where there is high parental conflict, damaging to children. The use of parenting agreements as a means of supporting parents to focus on their child's needs, and agree practical everyday care arrangements, is helpful. It is our intention that parents will be supported to reach such agreements through dispute resolution services, including targeted parenting programmes, so that as many disputes as possible can be resolved without the need for court intervention. We will also work to better integrate local services to support separated and separating parents so that parents have access to a range of appropriate services when they need them.</p> <p>The Government supports the Review's view that there needs to be less emphasis placed on parents' perceived 'rights' of contact with their children. The Government want parents to focus on the responsibilities they have towards their children, and what children can expect from their parents in terms of their care and meeting their needs.</p> <p>The Government agrees with the recommendation to consider how a signed Parenting Agreement could have evidential weight in any subsequent court proceedings. The Government will need to determine how the court's procedures and powers would need to change to achieve this, and ensure there is no conflict with the principle that the court's paramount consideration must be the welfare of the child.</p>

No	Family Justice Review Recommendation	Accept/ Reject	Reason
103, 104	<p>Government should develop a 'child arrangements order', which would set out the arrangements for the upbringing of the child when court determination of disputes related to the care of children is required.</p> <p>Government should repeal the provision for residence and contact orders in the Children Act 1989.</p>	Accept (subject to further work)	<p>The Government sees value in changing the emphasis of court orders to focus on the practical arrangements for caring for the child, and remove the current emphasis on the labels 'contact' and 'residence'.</p> <p>This is consistent with wider measures proposed by the Review to establish a clear focus throughout the process of dispute resolution on the needs of the child. The Government will bring forward legislation on this issue at the earliest opportunity.</p>
105	Prohibited steps orders and specific issue orders should be retained for discrete issues where a child arrangements order is not appropriate.	Accept	<p>The Government agrees that there is merit in retaining both specific issues orders, and prohibited steps orders, whilst recognising that the majority of disputes will be resolved through different channels.</p> <p>Both specific issues orders and prohibited steps orders will be used to resolve less common issues which are less likely to relate to the child's every day care. The retention of these orders will help ensure that both parenting agreements and consideration of a 'Children's Arrangements Order' remains focused on the child's day to day care arrangements.</p>
106	The new child arrangements order should be available to fathers without parental responsibility, as well as those who already hold parental responsibility, and to wider family members with the permission of the court.	Accept	<p>The Government agrees that any new order relating to agreements for care of a child should be available to fathers with and without parental responsibility, as well as to wider family members, where the court has granted leave.</p> <p>This is consistent with current arrangements for eligibility to apply for a contact or residence order under section 8 of the Children Act 1989.</p> <p>This position is in line with wider measures to ensure that the child remains firmly at the centre of processes for resolving private family law disputes.</p>

70 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
107, 108	<p>Where a father would require parental responsibility to fulfil the requirement of care as set out in the order, the judge would also make a parental responsibility order.</p> <p>Where the order requires wider family members to be able to exercise parental responsibility, the court would make an order that that person should have parental responsibility for the duration of the order.</p>	Accept (subject to further work)	<p>The Government agrees with the Review that where a father without parental responsibility (PR) is effectively exercising PR as a result of a court order, that should be recognised formally by the court through the award of PR. Existing law already means that the majority of parents acquire PR automatically; unmarried fathers who are given PR by the court in this way should not therefore have their PR limited to the duration of the order.</p> <p>Where a wider family member would need PR to fulfil the order, the PR order should be limited to the duration of the order. If PR were to be awarded to wider family members on an ongoing basis, the child's care arrangements are likely to become unnecessarily complicated.</p> <p>These proposals are consistent with wider efforts to maintain a clear focus on the child's needs as well as on the responsibilities of other individuals to meet those needs.</p>
109	<p>The facility to remove a child from the jurisdiction of England and Wales for up to 28 days without the agreement of all others with parental responsibility or a court order should remain.</p>	Accept	<p>The Government agrees with the Review's recommendation to preserve this provision, on the basis that it can help avoid unnecessary and uncontroversial court applications.</p> <p>The need for consequential amendments will be considered as part of wider work arising from the proposed introduction of a child arrangement order and the removal of existing contact and residence orders.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
110	The provision restricting those with parental responsibility from changing the child's surname without the agreement of all others with parental responsibility or a court order should remain.	Accept	<p>The Government agrees with the Review's recommendation to preserve this provision.</p> <p>The question of a child's name can be extremely controversial; the Government believes it is right that a child's name can only be changed with the consent of all those with parental responsibility.</p> <p>The need for consequential amendments will be considered as part of wider work arising from the proposed introduction of a child arrangement order (and the removal of contact and residence orders).</p>
A coherent process for dispute resolution			
111	Government should establish an online information hub and helpline to give information and support for couples to help them resolve issues following divorce or separation outside court.	Accept	The Government agrees that access to information, advice and continuing support for families needs to be simpler, easier and more user-friendly. The Government is considering how the planned reforms to the Child Maintenance system could provide the opportunity for the technical infrastructure for an online information hub, as well as a helpline which can offer support to all separating families.
112	'Alternative dispute resolution' should be rebranded as 'Dispute Resolution Services', in order to minimise a deterrent to their use.	Accept	The Government will begin to use the term 'Dispute Resolution Services' with immediate effect.

72 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
113, 117	<p>Where intervention is necessary, separating parents should be expected to attend a session with a mediator, trained and accredited to a high professional standard, who should:</p> <ul style="list-style-type: none"> i) assess the most appropriate intervention, including mediation and collaborative law, or whether the risks of domestic violence, imbalance between the parties or child protection issues require immediate referral to the family court; and ii) provide information on local Dispute Resolution Services and how they could support parties to resolve disputes. <p>Attendance at a Mediation Information and Assessment Meeting and Separated Parent Information Programme should be required of anyone wishing to make a court application. This cannot be required, but should be expected, of respondents.</p>	Accept (in principle)	<p>The Government recognises that the Pre-Application Protocol for Mediation and Information Assessment meetings (MIAMs) introduced in April 2011 is not compulsory. The Government will consider further measures to reinforce the expectation that separating parents should as a matter of course attend an initial meeting with a trained mediator before proceeding to court. The Government therefore intends to make further statutory reform to reinforce the existing Pre-Application Protocol and ensure that in every case evidence of attendance at an initial meeting with a mediator at a MIAM (via the completion of an FM1 form by the mediator) is required before a case can proceed to court. As at present, exemptions would apply, for example in urgent cases or in cases of domestic violence.</p> <p>Mediators will need to be skilled at assessing a client's needs and be able to recognise and advise on which type of dispute resolution intervention would be appropriate. They will also use their professional judgement to identify cases which are not suitable for mediation, including cases of domestic violence, and will report on this to the court where proceedings are subsequently commenced.</p> <p>The Government will consider how the Family Mediation database, which is currently accessible via Directgov, can be improved; the database provides users with the details of their nearest accredited family mediation service(s). The Government will also work with the Family Mediation Council and encourage them to support their members to become more visible within their local communities through building relationships with local schools, health services and the courts.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
			The Government recognises the value of bespoke parenting programmes in supporting parents in focusing on the needs of their children, and in enabling them to resolve disputes. The Government is therefore exploring how it can promote the take-up of such courses before court.
114	The mediator tasked with the initial assessment (Mediation Information and Assessment Meeting) would need to be the key practitioner until an application to court is made.	Accept	The Government will work with the Family Mediation Council to make sure that this is adopted as best practice by mediation services.
115	The regime would allow for emergency applications to court and the exemptions should be as in the Pre-Application Protocol.	Accept	<p>The number of exemptions that solicitors may apply to individuals eligible for legal aid was streamlined in November 2010 and is mirrored in the current Pre-Application Protocol for Mediation Information and Assessment Meetings.</p> <p>The Government will consider the effect of streamlining the exemptions and whether they could be narrowed further.</p>

74 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
116	Those parents who were still unable to agree should next attend a Separated Parent Information Programme and thereafter if necessary mediation or other dispute resolution service.	Accept	<p>The key aim of the Separated Parenting Programme (PIP) is to support parents to reach an agreement in disputes about the arrangements for their children by supporting them to improve the parenting relationship they have with their former partner. This helps parents focus on the needs of their child rather than concentrating on the conflict. Evaluation evidence suggests that the programme enables parents to better understand and discuss the issues they have; and that PIPs work best when parents participate early in the dispute resolution process (rather than when proceedings have progressed further in the courts).</p> <p>PIPs are not currently available to parents until their dispute reaches the court stage. The Government will consider how to make such programmes available to parents as part of pre-court dispute resolution processes.</p>
118	Judges should retain the power to order parties to attend a mediation information session and Separated Parents Information Programmes, and may make cost orders where it is felt that one party has behaved unreasonably.	Accept	<p>The Government accepts this recommendation. Research has shown the Parenting Information Programmes have been valuable to parties to a court case at all stages of their dispute and the Government agrees that judges should retain the power to order parents to attend these courses where the judge feels that it is appropriate.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
119	Where agreement could not be reached, having been given a certificate by the mediator, one or both of the parties would be able to apply to court.	Accept	The Government accepts this recommendation. We recognise, for example, that a prospective respondent to court proceedings may decline to participate in a Mediation Information and Assessment Meeting or in any dispute resolution service and therefore a prospective applicant needs to have access to the courts in such circumstances. The Government believes that over time education and changes to processes will mean more people use non-court dispute resolution services, and mediation in particular.
120	Mediators should at least meet the current requirements set by the Legal Services Commission. These standards should themselves be reviewed in the light of the new responsibilities being laid on mediators. Mediators who do not currently meet those standards should be given a specified period in which to achieve them.	Accept	The Government will continue to work with the Family Mediation Council and LSC to make sure that accreditation standards are harmonised and that mediators are able to access Continuing Professional Development.

76 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
121	<p>Government should closely watch and review the progress of the Family Mediation Council to assess its effectiveness in maintaining and reinforcing high standards. The Family Mediation Council should if necessary be replaced by an independent regulator.</p>	Accept	<p>Professor John McEldowney has been commissioned to undertake an independent review of the Family Mediation Council (FMC). The purpose of the review is twofold:</p> <p>Part I – to satisfy a) the Board of the FMC; b) the relevant Boards and Committees of its Member Organisations; and c) relevant Government departments, that good practice operates in the FMC’s participating Member Organisations; and also that the public interest is protected in the carrying out of mediation and in the provision of mediation services;</p> <p>Part II – to consider what should be the role of the FMC, whether it needs to be changed or strengthened to meet present and future demands and how this might be accomplished.</p> <p>The Government expects to receive an interim report in early 2012 and will look carefully at its emerging conclusions and recommendations.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
122	The Family Justice Service should ensure for cases involving children that safeguarding checks are completed at the point of entry into the court system.	Accept	<p>The Government agrees that an initial safeguarding check is essential at the point at which the courts become involved in a private law dispute. Arrangements are already in place, through Cafcass and Cafcass Cymru, to ensure that initial safeguarding checks are undertaken and that the parties have an opportunity prior to the First Hearing to discuss any safeguarding concerns they may have.</p> <p>For cases which are settled away from court, through the use of appropriate dispute resolution services, it is equally important to identify safeguarding issues. Mediators and other providers of these services will, as at present, need to use their professional judgement to identify cases which are not suitable for mediation and other non-court interventions (either because of domestic violence or other concerns). These can then be routed through the appropriate process into court.</p>
123	HMCTS and the judiciary should establish a track system according to the complexity of the case. The simple track should determine narrow issues where tailored case management rules and principles would apply.	Accept (subject to further work)	<p>The Government agrees that less complex cases should have a separate track to enable them to be progressed more speedily. The President of the Family Division's existing Private Law Programme aims to narrow at the first dispute resolution hearing the issues that require determination and to make decisions about how the case should be progressed. However, at present there is no formal track system into which to allocate these cases following the first hearing. Further work should therefore be done to develop and implement such a track system. Consideration will need to be given to how this will work with proposals to improve judicial continuity and avoid unnecessary delay.</p>

78 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
124	The First Hearing Dispute Resolution Appointment should be retained. Where further court involvement is required after this, the judge should allocate the case to either the simple or complex track according to complexity.	Accept (subject to further work on tracking)	The Government does not expect there to be any change of focus to the current Private Law Programme where the court is actively involved in helping parties to explore ways of resolving their dispute at the first hearing. The issue is how cases can be progressed effectively through the next stages of the case under a track system following the first hearing. The Government will work with the judiciary to consider how such a system would work.
125	The judge who is allocated to hear the case after a First Hearing Dispute Resolution Appointment must remain the judge for that case.	Accept	<p>The Government accepts this recommendation in principle and believes that this is key to ensuring the effective management of cases and giving the parties the confidence that decisions are being made by a judge who knows the family and is familiar with all the facts in the case. The allocation of individual judges to cases (or listing) must, however, remain a judicial matter. Listing decisions need to take account of local circumstances and the need to avoid unnecessary delay.</p> <p>The Government will work with the Judicial Office and HMCTS to further promote the existing guidance on achieving continuity in the family courts.</p>
126	[see recommendation 2]		

No	Family Justice Review Recommendation	Accept/Reject	Reason
127	The government and the judiciary should actively consider how children and vulnerable witnesses may be protected when giving evidence in family proceedings.	Accept (subject to further work)	<p>Judges already have the powers and training to ensure that the evidence process is handled sensitively for children and vulnerable witnesses. These powers include intervening to prevent inappropriate questioning, or having questions relayed to the witness (video links can be used as well), rather than asked directly. They cannot, however, prevent cross examination altogether.</p> <p>A small-scale survey of courts in 2010 identified very few cases of this nature and suggested that the family courts were already well equipped to deal with any abuses of cross-examination.</p> <p>The Government accepts that there is a risk the numbers of such cases will increase following legal aid reform, although they are likely to remain relatively rare.</p> <p>The Government will continue to work with the judiciary to determine whether further steps need to be taken to address this issue.</p>
128	Where an order is breached within the first year, the case should go straight back to court to the same judge to resolve the matter swiftly. The current enforcement powers should be available. The case should be heard within a fixed number of days, with the dispute resolved at a single hearing. If an order is breached after 12 months, the parties should be expected to return to Dispute Resolution Services before returning to court to seek enforcement.	Accept (in principle, but needs some further work)	<p>The Government agrees with the Review that enforcement of contact orders is a difficult issue which needs to be addressed. It is unacceptable for contact ordered in the best interests of the child to be prevented from taking place as a result of non-compliance by parents with the terms of the court's order.</p> <p>The Government does not agree with the Review's conclusion that additional enforcement measures are not the answer. Whilst the courts already have a number of enforcement powers (a fine or imprisonment for contempt of court; the imposition of unpaid work; and the award of compensation for financial loss suffered by the other parent) there are practical and evidential hurdles which in practice mean that these sanctions are little used.</p>

80 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
			<p>The Government therefore intends to explore the feasibility of providing the courts with wider enforcement powers so that in appropriate cases these can be used to address wilful disobedience in respect of the court's order. Parents should also be made aware at the outset of proceedings about the potential consequences of disobeying any order made by the court and the Government believes that this could help to prevent enforcement from becoming the central issue.</p> <p>The Government agrees with the thrust of the Review's recommendation that the key to securing sustainable contact arrangements is to provide greater education to parents and support them to come to workable agreements. However, we support the principle that, where a contact order is breached, the case should be fast-tracked back to court for a single issue hearing to resolve the issue. The Government believes that this is key to breaking the cycle of repeated litigation and non-compliance. How this might be achieved in practice will need to be considered with HMCTS.</p>
129	There should be no link of any kind between contact and maintenance.	Accept	<p>Decisions about arrangements for the care of a child must be based on the best interests of the individual child. Simply restricting contact if maintenance is not paid, or reducing the maintenance payable if a parent withholds contact, would risk undermining this fundamental principle.</p> <p>The Government recognises, however, the importance of effective enforcement provisions so that court-ordered arrangements are not flouted, and is considering how existing provisions and practice might be strengthened to achieve this.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
Divorce and financial arrangements			
130	The process for initiating divorce should begin with the online hub and should be dealt with administratively by the courts, unless the divorce is disputed.	Accept	<p>The Government agrees that there could be advantages and savings in dealing with uncontested divorces administratively. This will primarily affect the making of the decree nisi (of divorce) or conditional order for dissolution of a civil partnership which would be made by appropriately qualified persons referring a case to a judge if appropriate. The decree absolute or final order is already issued administratively. This offers significant potential savings in judges' time (with approximately 130,000 applications for divorce and dissolution each year). The process will not apply to applications for nullity and for presumption of death, as these do require judicial determination. However, uncontested applications for judicial separation or separation of civil partners can be dealt with administratively.</p> <p>The effect of this recommendation combined with those relating to children arrangements generally is that the court would not consider arrangements for children in uncontested divorce cases. In addition, the proposal is that arrangements for children should not be considered in any divorce, dissolution or separation case. Divorcing or separating couples or those going through a dissolution with disputes over children and finance would be able to utilise dispute resolution services or, if these were unsuccessful in resolving differences, initiate Children Act 1989 or ancillary relief or other proceedings in respect of their children which would then be considered by a judge.</p>

82 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
131	People in dispute about money or property should be expected to access the information hub and should be required to be assessed for mediation.	Accept	<p>Information and guidance for people in dispute about money or property is currently available on Directgov.</p> <p>As the online information hub (see recommendation 111) is developed it will be important that people are aware of and engaged in using it as a resource to understand the options available to them. The information will make it clear that prospective applicants will need to attend a Mediation Information and Assessment Meeting if they are in dispute before they submit their application to court, unless one of the exemptions in the Pre-Application Protocol applies.</p>
132	Where possible all issues in dispute following separation should be considered together whether in all issues mediation or consolidated court hearings. HMCTS and the judiciary should consider how this might be achieved in courts. Care should be taken to avoid extra delay particularly in relation to children.	Accept (subject to further work to assess the feasibility of consolidating court hearings)	<p>The Government will encourage the Family Mediation Council to promote 'all issues mediation'. The accreditation and training of mediators may need to be adapted and we will make sure that mediation services are not impacted negatively.</p> <p>The Government is concerned that consolidated court hearings should not undermine efforts to encourage settlement of disputes through non-court Dispute Resolution Services. We would not want to create a perverse incentive to bring cases to court. We will consider with the judiciary and HMCTS the potential benefits and drawbacks of such a change.</p>

No	Family Justice Review Recommendation	Accept/Reject	Reason
133	Government should establish a separate review of financial orders to include examination of the law.	Ongoing	<p>The Law Commission is already taking forward a project to look at how provision might be made for pre-nuptial, post-nuptial and separation agreements to be given legal effect, so as to provide couples with more control and certainty about how their assets are to be divided on divorce. Ministers have agreed that this project should be extended to include a limited reform on the substantive law on Financial Orders relating to needs and non-matrimonial property. The project will take around 18 months to complete. The Law Commission will then undertake a separate project to make recommendations for improving the enforcement of Financial Orders. These two projects together will improve the substantive law and make it easier to enforce Financial Orders once made by the courts.</p>

84 The Government Response to the Family Justice Review:
A system with children and families at its heart

No	Family Justice Review Recommendation	Accept/Reject	Reason
134	<p>The Ministry of Justice and Legal Services Commission should carefully monitor the impact of legal aid reforms. The supply of properly qualified family lawyers is vital to the protection of children.</p>	Accept	<p>The Government carried out a full analysis of the likely impact of the reforms and published it alongside the response to the <i>Proposals for the Reform of Legal Aid in England and Wales</i>. This analysis confirmed that the planned fee reforms were likely to be sustainable. Since then, the Legal Services Commission (LSC) has commenced a tender for interim family contracts (pending the introduction of the planned changes in the Legal Aid, Sentencing and Punishment of Offenders Bill) on the basis of the new reduced fees and results indicate that there appear to be no access gaps and no areas where access to services will be compromised with the LSC confident that there will be more than sufficient coverage.</p> <p>More generally, the LSC is closely monitoring the impact of the new fees to make sure it is aware of any shortage of services and the Government is working closely with the LSC so that it is able to respond promptly, effectively and appropriately to ensure that children can continue to access legally aided services where necessary. The Government is also working with the LSC to develop and put in place a robust client and provider strategy. This will include consideration of the best way to ensure that children obtain the services they need. It is confident that that there will continue to be a sufficient number of providers willing to undertake family legal aid work under the new strategy once the proposals have been fully implemented.</p>

L: Annex 2 – Developing the evidence base on family justice: update on progress

The Justice Committee report on the Operation of the Family Courts (June 2011)³⁸ highlighted the need for robust data gathering to allow the development of evidence-based policy and that the Ministry of Justice should lead this work, in collaboration with Her Majesty's Courts and Tribunals Service (HMCTS) and the Department for Education.

The Government response to the Justice Committee³⁹ acknowledged the limitations to the current evidence base, while setting out a number of improvements that had already been made. These included more complete statistics on a consistent basis; ongoing work to develop models to predict the volume of family cases and the administrative and judicial time associated with processing cases; and research projects undertaken in support of the Family Justice Review. We committed to providing an update on progress in our response to the Family Justice Review.

Key developments are as follows:

Following all Family Proceedings Courts and County Courts migrating to a single IT system providing a consistent counting and reporting mechanism, MoJ published for the first time on 12 January 2012 key statistics on family justice, broken down by county court/local justice area. The statistics covered:

- Number of children subject to public law applications made.
- Number of children subject to private law applications made.
- Care proceedings timeliness: average time from application to disposal, and the % completed in 30, 50 and 80 weeks.
- Number of petitions filed for the dissolution of marriage.
- Number of applications for ancillary relief disposed of.
- Number of domestic violence applications.

On the same day MoJ released Legal Services Commission (LSC) data, broken down by the 12 LSC areas, on the number of people taking up publicly-funded family mediation

38 <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmjust/518/51802.htm>

39 <http://www.official-documents.gov.uk/document/cm81/8189/8189.pdf>

86 The Government Response to the Family Justice Review:
A system with children and families at its heart

assessments and the conversion rate from mediation assessment to mediation session in family cases.

The reports are available at: <http://www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/index.htm>

The three research projects undertaken by the Ministry of Justice in support of the Family Justice Review were completed, with the reports published on the 3 November 2011. Together these provide evidence in relation to a number of the evidence gaps identified by the Review. They provide insights into the nature of public and private law cases, including average case length; parties involved in cases; number of hearings; number of expert reports requested; the factors related to case length; the outcomes for children; and the pattern of use of legally aided services in private family cases.

These reports can be found on the Ministry of Justice website:

Outcomes of Family Justice Children's Proceedings – a Review of the Evidence

<http://www.justice.gov.uk/publications/research-and-analysis/moj/outcomes-family-justice.htm>

Family Justice Children's Proceedings – Public & Private law Case Files

<http://www.justice.gov.uk/publications/research-and-analysis/moj/family-justice-children.htm>

Sustainability of mediation and legal representation in private family law cases

<http://www.justice.gov.uk/publications/research-and-analysis/moj/sustainability-mediation-legal-rep.htm>

Work is continuing to develop models to help predict the volume of family cases, as well as the administrative and judicial time associated with processing cases and the unit costs associated with this. This work goes some way to help fill some of the data gaps identified by the Family Justice Review on court processes and costs associated with these, and will be used to inform HMCTS resource allocation going forward.

Building on this work, the Ministry of Justice, in consultation with the Department for Education, Cafcass and HMCTS, has begun synthesising and reviewing the various recommendations related to data and evidence in the Family Justice Review in order to develop a proposed forward plan. The initial focus is on identifying potential performance measures, recognising that the ability to capture any new information will be subject to IT and resource constraints. Scoping work is also commencing on improving our understanding of what the broader research requirements are. We will be working with the proposed Family Justice Board to agree priorities for research, dependant on the timetable for implementation of various reforms, the need to complement management information and resource availability.

M:Annex 3 – Impact Assessments

It is Government policy that Impact Assessments should be undertaken on new policies affecting the private sector (businesses), the third sector (charities, voluntary organisations) or public services (schools, local authorities). Their preparation and publication ensure that those with an interest understand and can challenge:

- why the Government is proposing to intervene.
- how and to what extent new policies may impact on them.
- the estimated costs and benefits of proposed and actual measures.
- highlight potential unintended consequences.

The following Impact Assessments will sit alongside this response and will be available on the Ministry of Justice website:

- Experts
- Time Limits and Interim Care Orders
- Mediation
- Divorce

A number of other IAs will be prepared alongside any potential changes to legislation and published at that time.

Under the Equality Act 2010 section 149, when exercising its functions, Ministers and the Department are under a legal duty to have ‘due regard’ to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a protected characteristic and those who do not); and
- Foster good relations between different groups.

Paying ‘due regard’ relates to considering the potential impacts of new policies on the nine “protected characteristics” under the Equality Act – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity. Where a potential disadvantageous effect is identified, how that is either mitigated or justified by reference to the objectives of the policy is set out. The Government records its fulfilment of its duties by completing an Equality Impact Assessment (EIA).

Impact Assessments and Equality Impact Assessments will be published in due course and will be available on the MoJ website.

N:Annex 4 – Key references and useful supporting documents

Family Justice Review Interim Report, March 2011

<http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-interim-rep.pdf>

Family Justice Review Final Report, November 2011

<http://www.justice.gov.uk/publications/policy/moj/family-justice-review-final.htm>

A Young People's Guide to the Family Justice Review, November 2011

<http://www.justice.gov.uk/downloads/publications/policy/moj/fjr-recommendations-yp-guide.pdf>

Justice Select Committee Report into the Operation of the Family Courts, June 2011

<http://www.publications.parliament.uk/pa/cm201012/cmselect/cmjust/518/51802.htm>

The Government Response to the Justice Select Committee, October 2011

<http://www.official-documents.gov.uk/document/cm81/8189/8189.pdf>

The Government response to *Strengthening families, promoting parental responsibility: the future of child maintenance*

<http://www.dwp.gov.uk/docs/strengthening-families-response.pdf>

For an update on the progress made since the publication of the Munro Review into Child Protection, please visit:

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

For more information on Cafcass, including advice and information to children and families, please visit:

<http://www.cafcass.gov.uk>

For more information on HMCTS, please visit:

<http://www.justice.gov.uk/about/hmcts/>

For more information on the Department for Education work on adoption please visit:

<http://www.education.gov.uk/childrenandyoungpeople/families/adoption>

For more information on the judiciary visit:

<http://www.judiciary.gov.uk/about-the-judiciary>

