

## **Family Justice Review (FJR) endorses Guardian's role but ducks serious failures in current services.**

Nagalro, the professional association for court guardians and independent social workers welcomes the comprehensive review of the family justice system and the commitment to tackling the damaging delays which are endemic within the system.

In particular we welcome:

- the support for the 'tandem model' of independent legal and social work representation for children within the FJR report although we strongly opposes in-house legal representation for children.
- the decision to recommend against a legal presumption around shared parenting.
- the FJR recommendation to incorporate the UNCRC into domestic legislation which is a key requisite to hearing the voice of the child in the proceedings.
- the commitment to interdisciplinary training and induction for family court professionals.
- the recommendation to consider amending s34 CA1989 to include an assumption of reasonable contact between siblings.
- the Review's endorsement of the need for more research into the contribution of Independent Social Work expert witnesses to the work of the family courts.

However, the Family Justice Review (FJR) recommendations risk dismantling constitutional protective mechanisms for children by substantially reducing the level of judicial oversight of local authority decision making, leaving children more vulnerable to wrong decisions being made on the basis of insufficient evidence, Nagalro, warned today. Ann Haigh, Chair of Nagalro said *"We welcome the concept of a coherent family justice system with proper management information. These positives will not, however, be sufficient to safeguard children's welfare in the absence of effective local authority and court professional social work. Children's Guardians are appointed by the court and if the level of court oversight is reduced so will that of the children's guardian. Cafcass has already dangerously diminished the Children's Guardian role, which is a key legislative safety net for children. Nagalro is disappointed by the failure of the review to confront these significant and continuing difficulties."*

The report is unaccountably silent about Cafcass and ducks the key question of whether new Cafcass 'proportionate' operating model meets the statutory



criteria necessary to ensure that children receive the service and protection they need. Services to children have already been substantially pruned back in both public and private law. It is of particular concern that Cafcass' key performance indicators conceal the fact that many children are not being seen.

The Family Justice Review has also failed to grasp the nettle of the huge variation in performance and the inconsistencies in local authority assessment of both children's needs and the capacity of their family members to provide safe care. Taken with the current thrust towards target driven adoptions from care, we are concerned that this risks a return to a system where children's futures are determined not on the basis of all the evidence but by internal local authority administrative procedures that were discredited a generation ago.

Widespread systemic change should be informed by evidence rather than aspiration. Pre-emptive change in protective mechanisms for children before the positive proposals from Professor Eileen Munro's child protection review have had time to embed will leave children in reality more vulnerable to wrong decisions.

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#### Notes to Editors:

1. NAGALRO is the Professional Association for Children's Guardians, Family Court Advisers and Independent Social Workers. The association aims to promote and enhance the quality of practice of those concerned with the independent representation of children's interests before the courts, throughout England and Wales.
2. Children's guardians are appointed in public law proceedings in the family courts i.e. where Local Authority Children's Services take court action to protect children whom they believe are suffering significant harm within their families, - physical, sexual or emotional abuse. The role developed to give children an independent voice and access to independent representation after the tragic death of Maria Colwell, a seven year old girl whose voice was not heard when the court returned her to mother and step father who murdered her. Children's Guardians act in 'tandem' with children's solicitors to critically appraise the actions of local authorities acting in loco parentis as well as those of parents or carers. Their independent investigation and assessment of the child's situation ensures that his or hers rights and welfare are protected by the court. It is the independence of the Guardians view which provides the critical safeguard for the child.
3. Guardians are also appointed in adoption proceedings, emergency protection orders, and applications for secure accommodation. In addition, Family Court Advisers act in private law cases, reporting to the court on children's welfare in relation to contact and residence issues. A Guardian can also be appointed for a child in private law proceedings under Rule 16.4 Family Proceedings Rules 2010 where their welfare requires independent representation.
4. The NAGALRO website can be found at: [www.nagalro.com](http://www.nagalro.com)

