

NAGALRO PRESS RELEASE

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Government response to the Family Justice Review weakens safeguards for children

Nagalro, professional association for court guardians, welcomes the government's commitment to reducing delay in the family justice system but warns that it risks harming children's interests by ill-thought out change. Courts provide vital protection that ensures adult agendas do not ride roughshod over children's needs. Ann Haigh, chair of Nagalro said: *"We support the drive to establish a more coherent interdisciplinary family justice system where services work together more effectively, as long as it does not lead to a lesser service for children."*

Six month time limit on care proceedings

Pressures on the family justice system have been exacerbated by the recent large increase in care proceedings cases brought by Local Authorities. The increase indicates that many children suffer abuse and neglect in their own families and need to be protected through care proceedings. Court scrutiny is the best protection for these children and it is vital that this safeguarding system is not dismantled.

A six months time limit for care proceedings is easy to propose but hard to deliver. Ann Haigh added: *"A six month limit is simply not workable without an increase in resources at the front line to cope with demand. A rigid timescale will work against the interests of justice and children's rights. Social workers and children's guardians will be criticised when unrealistic deadlines are not met, but it is children who will suffer when wrong decisions are made on insufficient grounds."* Professor Eileen Munro has recommended scrapping such arbitrary deadlines for social workers.

Court scrutiny of care plans is essential to ensure the local authority assessment and planning is sound. Vulnerable children will suffer miscarriages of justice if their cases receive only a cursory glance. The government shows a touching faith in the capacity of local authorities to be all things to all children when evidence shows their performance is extremely variable. The interests of children are often at odds with the financial interests of local authorities. Children need their guardian and solicitor as their truly independent protectors against poor social work practice. Change should follow, and not precede, demonstrable improvement in local authority performance.

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Cafcass

Nagalro is concerned that the Family Justice Review and the government's response gloss over significant problems in Cafcass. Our members report that the Cafcass 'proportionate model' is failing children. This sanctions a lower level of scrutiny by children's guardians, which can lack sufficient rigour and challenge to local authorities. Cafcass waiting lists have disappeared, but only at the expense of children. Cases are allocated to hugely over-burdened workers regardless of whether they can do any work on them. Ann Haigh, Chair of Nagalro said: "*The Cafcass 'proportionate model' is a dangerous one for children. It is alarming to see 'proportionate working' becoming embedded and accepted by the government when it is failing children.*"

In principle Nagalro supports the transfer of Cafcass to the Ministry of Justice. Cafcass will benefit from being part of an agency that understands the law and from being more fully integrated with the family justice system. But this transfer can only work as long as resources follow the children.

Nagalro, along with the IAC (Interdisciplinary Alliance for Children), recommended that services are more closely aligned at the local court level to create a less top-heavy, more flexible family justice system responsive to the needs of families and children.

Shared parenting in private law cases

Nagalro agrees with the Norgrove enquiry's view on shared parenting. Courts already take very seriously the need for children to have continuing relationships with both parents. Current legislation supports this principle. The paramount welfare of the child must remain the overriding consideration when making decisions. It would be a retrograde step to bring in legislative change that will increase conflicts about children.

It is regrettable that there is a lack of creative and practical approaches to ensure children are central to decisions about their lives when parents separate. Children in private law lack direct ways for their voices to be heard. Too often adult concerns dictate the agenda; too often children in private law are passive casualties rather than active participants. Children have strong feelings about contact with their siblings in private law as well as public law and they need the means to be heard on these matters.

The proposals for a child arrangements order agreed between parents can exclude court scrutiny of the child's position. To simply say that children should have a voice is not enough – they require access by right to independent representation so that they can be heard by the court before decisions are made.

We call on the government to develop coordinated approaches that will provide a stronger voice for children in private law cases and provide practical help that is easily accessible by children themselves. Existing legislation (s 122 of the Adoption and Children Act 2002), if implemented, would give children in high conflict cases rights to independent representation of their views and situation.

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For further please information contact:

Karen Harris	Principal Administrator, Nagalro office	01372 818504
Alison Paddle	Nagalro Press Officer	07789 252453
Ann Haigh	Chair, Nagalro Council,	0208 505 5773

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

