

Nagalro response to the President's Two-week rapid consultation on remote hearings in the Family Court

Nagalro as an organisation does not have direct experience of a remote hearing. We can therefore only answer certain questions listed below. We have encouraged our members with the necessary experience to respond directly to you.

1. Have you had direct experience of a remote hearing?

Although Nagalro has no direct experience of remote hearings, some of our members have. We have requested that our members with direct experience of remote hearings submit their own individual responses to the consultation.

2. If yes, what sort of hearing was it, which court centre was involved, through which remote method was it conducted and what was your role?

n/a

3. What factors worked well?

We are aware that a number of our members have experienced the remote hearings as minimally satisfactory. We should point out that our 'evidence base ' is no more than 10 persons.

4. Did you have any concerns?

Nagalro is particularly concerned about the effect on the child (both potentially positive and negative) of adjournments/part adjournments or remote hearings. The child must be at the centre of any consideration as to whether to proceed or not with a remote hearing. We believe that it is important to consider the impact on each child and a decision is made on a case by case basis depending upon the child's individual circumstances. We suggest that the Children's Guardian be particularly required by the Court to provide an evaluation of these issues, on behalf of the child, to assist the Court.

Our concerns reflect those of both the 'anonymous judge' contribution recently posted on the 'Transparency Project' and the Presidents judgement in 'Re P (a Child: Remote Hearing)' - [2012] EWFC 32. Specifically we are concerned that there may have been a 'rush' to try and go ahead with a remote hearing without appropriate thought and consideration of the factors highlighted by the President in his Guidance dated March 27th (ie ' *we must not lose sight of our primary purpose as a Family Justice system , which is to enable courts to deal with cases justly,*

having regard to the welfare issues involved [FPR 2010 1.1 ' the overriding objective '].

5. If you have concerns, do you consider that this way of working was justifiable in the short term?

We accept that it was inevitable that this particular way of working was adopted in the short term, and that it was seen as justifiable. However, we believe the Presidents judgment referred to at (4) goes some way to achieve a more nuanced consideration of the various factors involved in determining whether a remote hearing is appropriate.

6. How could the experience improved in dealing with the current crisis?

Same as 5 (above).

7. Have you had any direct feedback from lay clients or third parties (intermediaries/interpreters/experts) as to their experience of the remote hearing?

Nagalro has previously sent to the President's Office a letter outlining our concern about the position Independent Social Workers (ISW's) find themselves in as a result of the Covid 19 situation. We attach a copy of this letter.

8. Are you happy to be contacted for further questions?

Yes

About Nagalro

- 1. Nagalro is the professional association for Family Court Advisers, Children's Guardians and Independent Social Workers.** It has approximately 700 full members in England and Wales who represent the interests of children in a range of public and private law proceedings. Our members are senior, highly experienced children and family social workers who work in a variety of roles. Many work as independent social workers and risk assessors providing expert witness reports in a wide range of complex cases coming before the family courts; in fostering and adoption agencies; in independent practice providing therapeutic services; as academics; as supervisors, mentors and consultants. Members have significant experience as managers, chairs of Adoption Panels and other specialist social work practitioner roles.
- 2. Members also act as Children's Guardians and Family Court Advisers for the Children and Family Courts Advisory and Support Service (Cafcass)** where they work in tandem with children panel solicitors to represent the interests of children in care and other family proceedings.

3. Our members are primarily concerned to promote the paramount welfare of vulnerable children who are involved in family court cases. They have an important role in enabling the child's voice to be heard in court proceedings, so enabling compliance with Article 12 of the United Nations Convention on the Rights of the Child. They assist family courts to reach decisions about what plans will safeguard the child's interests and best provide for their future welfare.

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Consultation responses should be sent to consultationfjo@nuffieldfoundation.org
Alternatively please contact the Nuffield FJO office on +44 (0)20 7323 6242 to give responses by telephone.