

**REPLY BY THE PRESIDENT OF
THE COMMITTEE FOR HOME AFFAIRS
TO A QUESTION ASKED PURSUANT TO RULE 14 OF THE
RULES OF PROCEDURE BY DEPUTY LESTER QUERIPEL**

Question

In 2015, a review of the implementation of the Children Law 2008, was undertaken here in the Bailiwick by Professor Kathleen Marshall, on behalf of the Scrutiny committee. In her report, which was published in November 2015, Professor Marshall made 21 recommendations that she felt could be pursued by the States. With that very much in mind, I ask that you please provide me with answers to the Rule 14 questions laid out below. Also, as you will be aware I'm sure, the rules state that you furnish me with a written reply within 15 clear days of the receipt of the questions. I am presuming that means posting me a paper copy of the answers, which I would very much prefer. If the 'written reply' means via an email, then I ask please that you post me a paper copy as well. Thanking you.

1. *A) What has your department done so far to pursue Professor Marshall's recommendations?
B) What is your department currently doing to pursue those recommendations?
C) What will your department be doing in the future to pursue those recommendations?*
2. *Will the President of your department (or another political representative of your department in the President's absence) be making regular statements during future States debates, that update the States Assembly on the progress your department has made, in pursuit of the recommendations?*
3. *If the answer to question 2 is 'yes', then please can you tell me when the first statement will be made and also the dates for subsequent statements in future years, throughout the term of the current Assembly?*
4. *If the answer to question 2 is 'no', then please can you tell me how you will be keeping the Assembly informed regarding your departments attempts to pursue the recommendations?*
5. *Will your department also be providing the media with similar statements and updates, so they may in turn, broadcast and publish them for the benefit of the general public?*

Answer

1. *a) What has your department done so far to pursue Professor Marshall's recommendations?*
- b) What is your department currently doing to pursue those recommendations?*
- c) What will your department be doing in the future to pursue those recommendations?*

The Home Department (now the Committee *for* Home Affairs) welcomed the review of the implementation of the new Children Law and participated fully in both the consultation period and the Scrutiny hearing following completion of the Marshall report.

There were nine specific recommendations for the Family Proceedings Advisory Service (formerly known as Safeguarder Service) with supporting commentary and comment within the Report. The Home Department accepted the recommendations and an action plan was approved by the Home Department Board in February 2016.

The Family Proceedings Advisory Group (FPAG) is mandated to have oversight for the Family Proceedings Advisory Service (FPAS) and has been provided with regular reports on the progress being made in regard to the recommendations. The FPAG is chaired by the Chief Secretary of the Office *of the* Committee *for* Home Affairs. It has representatives from Health and Social Care Children's Services, the Court, the Office of the Children Convenor, Alderney, the Bar, Legal Aid, and the Voluntary sector. Members of the group are key partners in the implementation of some of the remaining recommendations.

The action plan has been regularly updated and is attached giving details current progress.

Five of the nine recommendations have been implemented. One of the outstanding recommendations - the external inspection is planned for 2017. The Scrutiny Report will be made available to the inspection team so that the particular issues raised by Professor Marshall can be considered.

It is anticipated that there will be actions identified from the inspection which will then be considered for implementation alongside the Marshall recommendations.

In common with all of the Office *of the* Committee *for* Home Affairs agencies, the FPAS has a business plan detailing a programme of continuous development in line with best practice. It should be noted that although the recommendations made by Professor Marshall were accepted by the Home Department Board and are being implemented, the strategic direction and practice of the FPAS is not limited to the matters referred to in the Report.

2. Will the President of your department (or another political representative of your department in the President's absence) be making regular statements during future States debates, that update the States Assembly on the progress your department has made, in pursuit of the recommendations?

The President and Members of the Committee for Home Affairs do not intend providing an update to the Assembly, as this should come from the lead Committee. The Committee for Home Affairs will continue to input into any such update.

3. If the answer to question 2 is 'yes', then please can you tell me when the first statement will be made and also the dates for subsequent statements in future years, throughout the term of the current Assembly?

Not Applicable.

4. If the answer to question 2 is 'no', then please can you tell me how you will be keeping the Assembly informed regarding your departments attempts to pursue the recommendations?

As well as inputting into any update made by the Committee for Health and Social Care, the Committee for Home Affairs and its Services regularly publish Business Plans which contain information of progress and the work being undertaken. Information will be provided in these documents which can be found on www.gov.gg

5. Will your department also be providing the media with similar statements and updates, so they may in turn, broadcast and publish them for the benefit of the general public?

As well as publishing information on the States of Guernsey website the Committee for Home Affairs regularly publishes information through the local press and other media including social media. Any important information and updates will continue to be published in this manner.

Date of Receipt of the Question: 15th December 2016

Date of Reply: 28th December 2016

Family Proceedings Advisory Service Action Plan following Scrutiny Review 2015.

Update – 21.12.16.

There were 9 specific recommendations for the FPAS in the Marshall Report published in November 2015 (recommendations 1-9 on page 92/93 of report). In addition recommendations 20 and 21 involving court rules and an independent complaints mechanism are relevant to the Service. The Family Proceedings Advisory Group approved the initial action plan on 18th February 2016 and received progress reviews on 19th May and 14th September 2016.

NB: The Safeguarder Service was renamed the Family Proceedings Advisory Service in March 2016 to coincide with the new States and the move from Departments to Committees. The Service is referred to as ‘Safeguarders’ throughout the Marshall report. In this update the recommendations remain verbatim but in the action plan the term FPAS and FPA are used instead of Safeguarder Service and Safeguarder. The term Safeguarder is still used in relation to appointments made by the CYCT.

Recommendation 1	Manager Responsible	Action Plan and current position.	Completed
<p>Consideration should be given to extending recruitment of Safeguarders beyond the social work profession.</p> <p>Page 26 of scrutiny report.</p>	<p>Anna Guilbert and Sue Vaughan</p>	<p>The Family Proceedings Advisory Service within the Bailiwick is unique in that its remit is to safeguard the welfare of children within three distinct contexts: public law, private law and CYCT related proceedings.</p> <p>The Guernsey Law and Ordinance do not prescribe the qualifications required to undertake the role of FPA. The use of non-social-work qualified individuals to perform this role within private and/or public law court proceedings represents a significant change from the established practice within the Court.</p> <p>In response to the Marshall report the need to be qualified as</p>	<p>To be kept under review to maintain the balance of skills in the team. Non-qualified FPA’s will be allocated CYCT referrals.</p>

		a social worker to be employed as an FPA has been changed from essential to desirable. Non-qualified staff with relevant experience can now apply for FPA posts.	
Recommendation 2	Manager Responsible	Action Plan	Completed
The minutes of the Safeguarder Service Advisory Committee should be published on the Service's website. This would include information about the training received by Safeguarders. Page 26/27	Sue Vaughan.	The FPAS advisory group meets 3 times a year, in January, May and September. Minutes are now published on the gov.gg website. The managers' report is included in the minutes- this gives statistical information about the work of the service and the training received by staff. The annual reports of the service are published.	Commenced 2016. Annual reports published once approved by CfHA.

Recommendation 3	Manager Responsible	Action Plan	Completed
<p>The template for the Safeguarders' reports should list the relevant child welfare principles as a point of reference.</p> <p>These are set out as fundamental principles in the new Law and are listed on page 13 of the Scrutiny report, they are to <i>guide public authorities when they are making decisions about children.</i></p>	<p>Sue Vaughan.</p>	<p>The report identified that there 'may be merit in highlighting the child welfare principle relating to avoidance of discrimination which includes reference to gender'</p> <p>The FPAS has always included the Welfare Checklist as identified in Part 1, 4 (2) in the Children (Guernsey and Alderney) Law 2008.</p> <p>This recommendation to also include the Child Welfare principles was welcomed as a sensible addition and useful by the FPAS as it links with the Child's plan used by HSC.</p> <p>The full list of child welfare principles is now attached as an addendum to every report and separate headings within the report address the principles particularly relevant to a case, including issues of how gender balance has been addressed.</p>	<p>Implemented and for review.</p>

Recommendation 4	Manager Responsible	Action Plan	Further actions required.
<p>The Safeguarder Service should be subject to regular external inspection.</p> <p>Page 28.</p>	<p>Anna Guilbert.</p>	<p>OFSTED has been invited to conduct an external inspection of FPAS which will take place during 2017.</p> <p>OFSTED inspect CAFCASS (children and families court advisory service) – the equivalent to FPAS in England and Wales.</p> <p>The terms of reference will be as for inspections of UK services with the addition of the CYCT aspects of the local service:</p> <ul style="list-style-type: none"> • Quality and effectiveness in private and public law practice, • Quality and effectiveness of work with the CYCT (Child, Youth and Community Tribunal) • Leadership and management. <p>The Scrutiny report will be made available to the inspection team so that the particular issues raised by Professor Marshall can be considered.</p> <p>It is anticipated that there will be actions identified from the inspection which will then be considered for implementation alongside the Marshall recommendations.</p> <p>The recommendations of the inspection report will be published, and depending on the recommendations a review period set.</p>	<p>Agree timetable with OFSTED inspector.</p>

Recommendation 5	Manager Responsible	Action Plan	Further actions required
<p>The Home Department should review the staffing, resources and expectation of the Safeguarder Service to ensure that it is equipped to fulfil its responsibilities.</p> <p>Page 28.</p>	<p>Anna Guilbert.</p>	<p>The number of requests from the court and tribunal are not within the service's control. However the practices/levels of contact/length and scope of reports are areas which are currently being reviewed to ensure that the service's responsibilities can be fulfilled within current resources.</p> <p>Resources will be considered in the current priority based budgeting exercise being undertaken across CfHA.</p>	<p>To be considered in the PBB exercise.</p>

Recommendation 6	Manager Responsible	Action Plan	Further actions required
<p>Consideration should be given to providing legal aid for mediation by suitably trained Advocates in appropriate circumstances.</p> <p>Page 30/31.</p>	<p>FPAS Advisory Committee.</p>	<p>This recommendation will be taken back to the Advisory Group (attended by the Legal Aid administrator) for direction. There will be continued efforts to facilitate early referral to mediation by the FPA's who are all trained mediators.</p>	

Recommendation 7	Manager Responsible	Action Plan	Completed
<p>The Safeguarder Service should seek to embed within its mediation service the principle of taking account of the wishes, feelings and views of children.</p> <p>Page 29-31.</p>	Sue Vaughan	<p>The current mediation model encourages parents to make responsible decisions about their children without the children having to be involved. FPA's have specific training in relation to the direct participation of children in mediation and currently consider meeting with children at every mediation.</p> <p>Follow-up training on direct consultation with children was completed in November.</p>	Ongoing training and review.

Recommendation 8	Manager Responsible	Action Plan	Further actions required.
<p>Consideration should be given as to whether the Child, Youth and Community Tribunal should have a role to play in some private law disputes about children. (see page 31/32 of the Scrutiny report for commentary)</p>	FPAS Advisory Group/Legal implementation group.	<p>This recommendation was made in the Home Department submission to Professor Marshall (page 31)</p> <p>It would promote parental responsibility and move away from the adversarial court system.</p> <p>This is a recommendation which will need to be discussed with the Convenor and those responsible for amending the Law including a new ground for referral and a review of the thresholds for referral.</p>	Discussions with Convenor/HSC and Law Officers to scope feasibility.

Recommendation 9	Manager Responsible	Action Plan	Completed
<p>Consideration should be given to providing a resource for helping parents and children to resolve difficulties that have arisen after the court case has ended.</p> <p>Page 33-34</p>	<p>Sue Vaughan/ FPAS Advisory Group.</p>	<p>Prior to the new law the Court had the ability to put in place a period of supervision by the FPA to monitor and assist the orders made in regard to contact with children. Although this is no longer in statute the individual FPA's do respond to requests for assistance in resolving ongoing problems after a case is closed. This regularly saves situations from escalating to another court application and is done on a voluntary basis by the FPA.</p>	<p>FPA time dedicated to closed cases is now being recorded and will continue to be monitored.</p>

Recommendation 20	Manager Responsible	Action Plan	Completed
<p>The Royal Court Could be invited to consider the purpose and proportionality of Rule 58 (communication of information relating to private court proceedings) and comparison with other jurisdictions.</p>	<p>Royal Court. FPAS represented by Sue Vaughan.</p>	<p>The Royal Court had commenced meetings to discuss this issue before the recommendations were published. A practice direction has been issued from the Royal Court.</p>	

Recommendation 21	Manager Responsible	Action Plan	Further action required.
<p>Consideration should be given to setting up an independent avenue of complaints, such as an Ombudsman, who may also be able to inform policy development in relation to children and young people.</p> <p>Page 20 – in reference to the Safeguarder service and Page 80-84 for general recommendations.</p>	<p>P&R/CHA/CHSC</p>	<p>Consideration of an Ombudsman role or improvements to the ARB process will lie with P&R or relevant departments.</p> <p>The Children’s Executive set up to monitor the CYPP could have a role.</p>	<p>Ongoing.</p>