

The Government Response to the Family Justice Review

A Guide for Children and Young People

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Ministry of
JUSTICE

Department for
Education

What is this guide?

This guide sets out the actions which we plan to take to improve the Family Justice System.

The Family Justice System in England and Wales helps people deal with family problems which sometimes have to be taken to court to get sorted out. For example, it makes decisions about whether children need to go into care to stay safe. And it makes decisions about what should happen when parents split up and they cannot agree on how to look after their children.

The system is made up of judges who make the decisions in court, social workers and others, including people who offer the courts advice or whose job it is to ensure children's views are put across in court.

In 2010, we set up the Family Justice Review to look at the way the Family Justice System works. The panel spoke to experts, people who work in the family courts (for example, social workers), parents, children and young people. It has suggested ways that we can make the system better for the children and families who are in it. This guide explains the changes we will make.

You can find more detailed information about the changes which are planned at <https://www.education.gov.uk/publications/>

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Why do we need to change things?

Every year, thousands of families with very difficult problems get involved in the Family Justice System. It can be a very worrying and stressful time for them. It can be very painful for families when a court is deciding whether a child should go into care or what should happen when parents split up. These decisions will affect families – and the rest of society – for a long time afterwards. So it is important to make the best decision for everybody involved, especially the children.

Unfortunately, courts take on average just over a year to decide whether a child should go into care. This is far too long. It is important to take time to make the right decision, but if a decision takes too long it can make children uncertain about their future.

Children also suffer if their parents split up and take their disagreements to court without trying easier ways to find a solution. Parents can be hurt and angry after their relationship ends, but their anger with each other should not be put before the needs of their children – it is better for them and for the children if they can reach agreement voluntarily.

We agree with the Family Justice Review's view that a child's needs must always come first. We have to make it easier to make quicker decisions about a child's future care, and we have to make it easier for parents to settle their disagreements without going to court. Put simply, we want to make sure that the Family Justice System works best for children.

This means changing things so that children's voices are heard at court and they feel involved in decisions that affect them. Courts should ask children what they want and explain to them what is happening and why. But children should also get the support they need so they do not feel responsible for the decisions that are made about them.

When parents split up

When parents split up it is usually best for both parents to stay involved in caring for their children. We want to make sure that parents get help to agree how they can both give their children what is best for them – now and in the future.

Finding a solution out of court

It is better if parents can decide how to look after their children after a split without going to court. A decision they make themselves may be more likely to last. It will also be easier for them to change their arrangements as their children's needs change. So we want to help parents come to an agreement without going to court in the first place (unless there is a danger to a child's health or wellbeing).

As soon as possible, we will set up a system to help parents understand why it is better to avoid court and to help them find a solution to their disagreement. To help them understand how to put their children's needs first, we will set up a telephone and online support service.

We want parents to make a Parenting Agreement. This agreement will explain the practical arrangements for looking after their children. It will include plans to help children stay in touch with other members of the family, particularly their grandparents. Grandparents can play a special role in children's lives, especially when parents are splitting up. We will encourage parents to include them in Parenting Agreements.

If parents need more help, we will encourage them to take part in a programme – a course that shows them that it is important for them to put their children's needs first. It will explain how other parents have found a solution and help them think about how their disagreements might affect their children.

We will also encourage parents to discuss their arrangements with a mediator – somebody who can listen without taking sides and help the parents make a decision that works for their children.

Parents will only be able to take their case to court after they have thought about discussing their arrangements with a mediator, or if somebody in the family is at risk of harm.

Finding a solution in court

If a case does go to court, we will make it easier to reach an agreement quickly based on the children's needs – not the anger or hurt of their parents.

We will make the court process easier by creating a single family court for England and Wales. Although the family court will deal with all cases, it will be able to handle simpler cases more quickly. The way the court works will also be easier for parents to understand.

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If parents cannot agree, the family court will be able to make an order for the arrangement of the child. This will set out the practical arrangements for looking after children. It is important that parents do not think that one parent has won and the other has lost when it comes to looking after their children. The order will always put the needs of children first and involve both parents in caring for their children (unless there is a good reason for one parent not to be involved). The court will explain to parents what will happen if they do not follow the order, and it will deal with any problems that occur. For example, if an order says that a child should spend time with both their parents and one parent is not very helpful in making this happen, the judge will call both parents back to the court quickly.

If parents cannot agree, the family court will be able to make an order for the arrangement of the child.

When children go into care

In a small number of families, parents struggle to care for their children. If this could mean that the child's welfare is at risk, their social worker can apply to court to take that child into care. People have come to expect that these decisions (about whether a child should go into care) will take a long time. The Family Justice System has not paid enough attention to the problems this can cause for a child. This is not acceptable.

We want quicker decisions

We have to shorten the time it takes for the court to come to a decision. Children who wait a long time for a decision can get very anxious and uncertain about what is happening to them. Long waits can also affect their development and make it more difficult to find them a new home if they need to be adopted in the future. Adoption can give vulnerable children better chances in life. So it is important that when a court decides a child should be adopted it can happen quickly with as little upset to the child as possible.

In future, we want all decisions to be quicker than six months. If possible, the courts will come to a decision sooner, and they will only be able to take longer than six months if they can explain why it is best for a child that they take longer to make a decision.

To make it easier to make decisions more quickly, we will:

- publish rules about how to set a timetable for a decision and train people working in the courts in how to use them;
- change the law to focus courts on the really important issues;
- use fewer expert reports; and
- have a clear process for professionals to follow.

A clearer role for judges

Judges will have a clearer role in setting dates for making a decision and making sure they are met. Where possible, the same judge will handle a case from beginning to end. They should not slow down their decision by spending too much time on the details of the care plan that social workers have produced for a child. This is because care plans are not the responsibility of the court.

Using expert reports

Sometimes the court will need to ask experts for extra advice before they decide whether they think a child should be taken into care. But often the court asks for too many expert reports, and waiting for them can stop them making a quick decision. It also means that children often have to see more than one expert, and they have to answer the same questions again and again. This can be upsetting for them. In future, we will only allow the court to ask for a report from an expert if it cannot make a decision without the report and the information it needs is not already available.

The role of social workers

Social workers will have an important role to play in reducing the time it takes to come to a decision about care. Their assessment of a child and their report to the court needs to be of a high quality, and should be sent to court on time. We are going to help ensure that social workers can get training in how to present their assessment to the court so that decisions are not delayed.

These changes will speed up the time it takes to make a decision about care. It will also make it easier to get a child adopted quickly, if that is the best thing for that baby or child. We will improve the way social workers and the court work together to prepare for adoption, and we will look at ways to speed up the process of finding adopters for a child.

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What next?

For some of the changes to happen, we will need to change the law. This process takes time, but we will start it in 2012 and we should see some important changes by 2013.

Our next step will be to set up the Family Justice Board. The Board will include senior people working in the Family Justice System. It will be in charge of making sure the changes we have mentioned here actually happen. Because these changes involve lots of different kinds of professionals, one of the Board's most important tasks will be to get people to work together to change the system. Without this, it would be impossible to get care decisions made in six months.

Cafcass and Cafcass Cymru are organisations in England and Wales that already help make sure the courts think about what is best for children. Along with other organisations, they will still have an important role to play in the new system. The Cafcass Young People's Board has done well in speaking out about children's issues. So we will ask the Family Justice Board to have a young people's version of the Board as soon as possible so that children and young people are involved in changes to the system from the start. The Board will find the best ways to help children of all ages understand the Family Justice System and how it affects them. It will also make sure that children and young people have a say in how we make changes to the current system.

Even though it will take longer than this to make all the changes we want to make, we are committed to making a better system for children. We will create a system which is faster, listens to the needs of children and puts them first. We want all children to have secure and safe childhoods and for them to have a stable home to live in.

