

# The States of Guernsey: Committee *for* Home Affairs

## Inspection of the Family Proceedings Advisory Service

**Inspection dates: 16–20 October 2017**

**Inspection team: Jeremy Gleaden, Senior HMI (Lead inspector) and Louise Hocking HMI**

1. The Marshall Report<sup>1</sup> (November 2015) recommended that the States of Guernsey Committee *for* Home Affairs arrange for an independent inspection of the Family Proceedings Advisory Service. The Committee *for* Home Affairs commissioned Ofsted to undertake the inspection.
2. This inspection report is in three sections and sets out the strengths of the service and areas for development under each recommendation for improvement.
3. Family Proceedings Advisory Service (FPAS) practitioners work in a broader family justice system. Learning from this inspection will require a system-wide response to make the most of it.

## Inspection findings

### Section 1: Practice guidance and management of the service

Recommendation 1: FPAS should publish practice guidance for practitioners. It should very clearly set out the expectations of practitioners and their roles and responsibilities in work for the courts and the Tribunal, taking account of the practice issues highlighted in this inspection report.

4. The staff of FPAS are a highly motivated group whose practice demonstrates that children's welfare is at the heart of everything they do. Almost without

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<sup>1</sup> A review into the implementation of the Children Law 2008 undertaken by Professor Kathleen Marshall, an independent expert who had been the first Commissioner for Children and Young people in Scotland. The objective of the review was to identify whether the policy objectives of the new law, in particular the aims of earlier, integrated and holistic intervention for children, had been achieved and to identify whether they had: been effective in preventing children becoming at risk; resulted in a robust system for the protection of children; and led to better outcomes for children and young people.

exception, practitioners are giving advice to the court or Tribunal<sup>2</sup> that promotes the welfare of children.

5. Family proceedings advisers<sup>3</sup> (FPAs) expertly undertake direct work with children and place this at the core of their practice. They engage children across a wide age range well and build rapport with them. This means that the FPAs support children to provide their views, wishes and feelings directly to the Tribunal even in the most difficult and traumatic circumstances for them. FPAs appropriately use their independence and are unafraid to be the lone voice for children. They challenge others clearly and confidently to ensure that the right decisions are made.
6. The service lacks practice guidance to ensure consistent decision-making about what is the best evidence and how it should be gathered or the minimum expectations of practitioners. In some cases, practitioners make repeat visits to extended family that do not significantly add to the understanding of the child's needs. While well intentioned, practitioners examine children's circumstances differently and on occasion, in excess of what is required to reach a timely recommendation.
7. The service is not delivering a consistent and proportionate approach to enquiries and interventions. Work with children lacks clear case planning from the outset. Plans do not clearly state objectives, actions, timescales, activities and outcomes. It is not clear what determines who needs to be seen, how often and for what purpose. Currently, this is guided by the style, experience and preference of the individual practitioner, which vary considerably. This variation leaves children, parents and wider partners less clear about the remit of the role and what will be provided. Case records lack regular case summaries, which would assist any reader in quickly understanding the service offered. This would also enable practitioners to evaluate concisely what had been achieved and what remained outstanding for each child.
8. Currently, FPAs spend a lot of time in court. Much of this is not the best use of their professional time. Time in court adds greatest value when either the child is not represented by an advocate or when the advocate needs a professional social work opinion in order to advise the court. FPAs routinely attend 'finding of fact' hearings, which are often long and complex. Their attendance is seldom necessary and their time could be more efficiently used elsewhere, working with children and families. What is critical is that the FPA receives the judgement from the 'finding of fact' hearing to inform their case analysis and advice to the court.

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<sup>2</sup> The Child Youth and Community Tribunal offers children and young people in need or in trouble the opportunity to have their case heard outside of a court environment.

<sup>3</sup> In law, practitioners are referred to as 'safeguarders'. This title remains in use in the Tribunal, but within the family courts the title of 'family proceedings advisor' is used.

9. FPA's routinely 'over-work' individual cases and case manage to considerable detail on a day-to-day basis. This takes up substantial time, is not putting their expertise to best use and sees them take on daily tasks and communications relating to message-taking between parties. This is particularly the case in private law work. The flexibility and commitment of the staff results in them undertaking activities that sit outside of their responsibilities. They do this to be helpful and responsive but it is disguising the wider need for other family support or preventative children's services and draining the FPA's of valuable time. The FPA's cannot continue to meet these needs and still focus on their priority: vulnerable children.
10. There is a lack of clarity for parents and children about what to expect from the service. FPA's are allocated ongoing tasks, including managing indirect contact such as exchanging cards and gifts, after a case closes. This is not best use of FPA's' time, unless there is exceptional need for an individual child that only the FPA's can meet.
11. Assessing whether thresholds have been met is an important part of effective case management and progression. There is a lack of clarity in FPA's practice about whether an FPA needs to be appointed in all cases. The threshold is also unclear for the Tribunal and social work services provided by the Health and Social Care Committee.
12. FPA's currently wait for all other parties' reports or statements before finalising and filing their report with the court. This is an example of in-built delay. Practitioners do not provide the court or Tribunal with an early case analysis, which would help a more timely solution for children. An FPA's early analysis could identify the root cause of the underlying problem, focus on the most important things and narrow the issues to those that really impact on the child and require a professional assessment. Currently, FPA's focus on peripheral points of dispute between parties. This does not assist case progression or add value for the child.
13. Court reports are an important part of FPA's practice. FPA's reports tend to be too long. They often repeat information and are submitted very late in proceedings. Court reports include effective descriptions of children's wishes and feelings, which are important in enabling courts to make the right decisions for children. Most court reports could be made much shorter by avoiding repetition, particularly of others' reports to court, and by focusing on the impact on the child within the case analysis.
14. The service needs to be governed by practice guidance that delivers greater consistency and transparency. This would also help practitioners new to the service in learning the role.

Recommendation 2: The home affairs committee should appoint a subject specialist practice manager to oversee the work of FPAS.

15. FPAS is made up of a resilient group of practitioners. They support each other well and pride themselves on maintaining high standards of service. They are flexible, work long hours and frequently work weekends. As a team, they have managed to support each other within a context of management changes and increasing demands in a stressful environment over a number of years. This has had a cumulative negative impact on the staff team. They continue to work hard but feel demoralised and under considerable pressure and public scrutiny.

16. There is no management capacity to:

- ensure that the profile of the FPAS is understood and that individual FPAs are protected from criticism within the island population<sup>4</sup>
- promote the service within the wider family justice system
- have a key role in the quality assurance of practice within the team.

17. Until April 2017, the FPAS had a dedicated manager post. Since November 2016, the service has had managerial oversight from a senior social work manager shared with another service. This manager's available time has been limited due to other responsibilities. The funding for the FPAS manager post has since been used to provide an additional FPA post to manage the high demand. Also, an FPA has been paid an 'acting up' allowance to manage the team since January 2017. This was appropriate as a short-term measure. However, the service needs greater managerial influence to address the demand 'up stream' and reverse the current inconsistency of work with children and families. FPAS needs a subject-specialist dedicated practice manager to do this. This appointment needs to be made promptly.

18. The relatively small team of FPAs is not well protected to ensure that it has maximum impact and is used only when necessary to provide the expert advice for the courts and the Tribunal. This protection would mean that only the most complex work was allocated and that FPAs spent less time in court.

19. Management oversight provided by the shared senior social worker has included limited professional supervision and encouraged continued weekly peer group meetings. However, team members lack regular support and supervision from a suitably experienced manager. They would benefit from a manager who is routinely available to assist them in problem-solving complex issues. Case planning requires additional rigour and discipline through a full-time, on-site supervisory relationship. This should challenge the different styles of practice while supporting the individual staff members.

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<sup>4</sup> FPAs have been subject to unpleasant comment both in person and on social media from dissatisfied parties in the recent past.

20. Case recording lacks uniformity. It is not easily accessible. It is not explicit about activity undertaken at each stage of FPA involvement. This is for all work, including for mediation work where recording is particularly sparse. The conclusion of work is not always immediately clear on case records. This is particularly the case for work that did not require a final report. All work undertaken, completed and closed lacks a separate succinct case closure record that is overseen and signed by a manager.
21. An active, dedicated manager would support and direct individual staff to optimise their time according to the needs of each individual child. There is no current direction to give permission to individual FPAs to stop absorbing all work or 'do too much'. Work that does not belong with the service is also not diverted somewhere more appropriate.
22. Appointing a manager will move the pressure away from the frontline practitioners. Proactive and preventative management-led systems earlier in the process will protect the valuable FPA resource for work with children who are the highest priority and ensure that it is quickly available. This 'invest to save' approach will offer the best use of resources. It will place responsibility for prioritisation away from the FPAs. This will free them to focus on their casework.

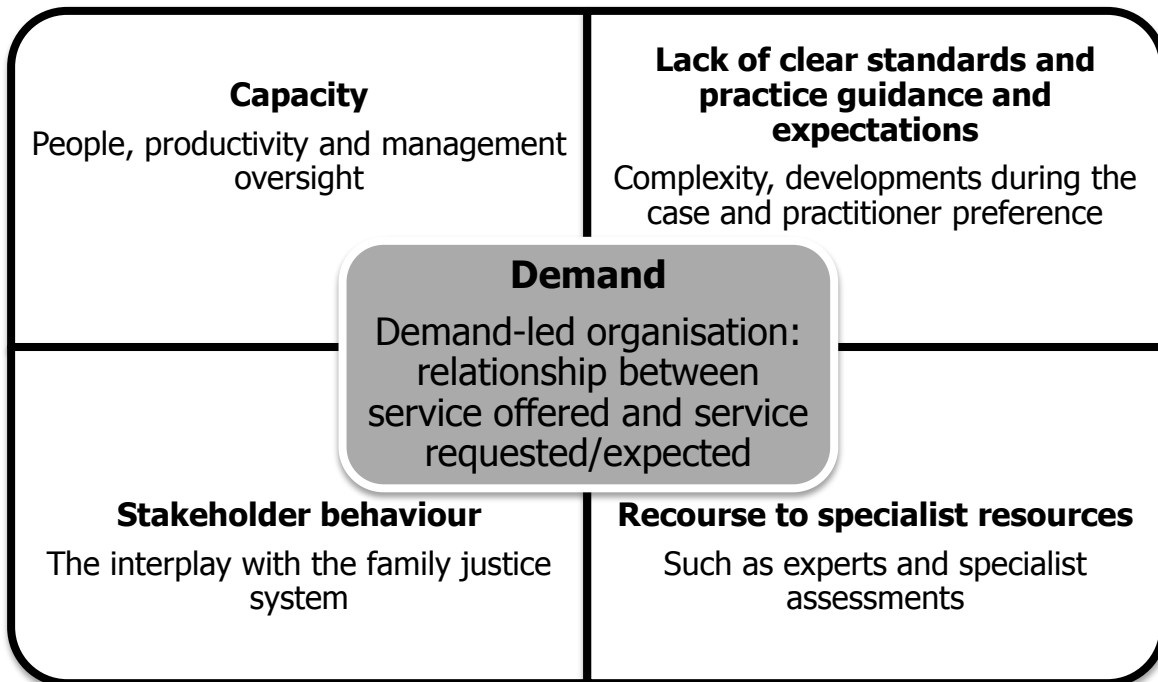
Recommendation 3: The current FPAS IT client database needs to be replaced or upgraded to meet business need.

23. The FPAS IT client database is currently not fully fit for purpose. At present it cannot provide the necessary management information in order to manage the service.

## **Section 2: Delay**

Recommendation 4: FPAS should take steps to avoid delay by:

- requesting that experts are appointed only when the case cannot otherwise move forward
  - introducing a system of triage in private law (including improving assessment for mediation)
  - stopping offering a service after proceedings are completed
  - eradicating the waiting list.
24. FPAS staff are working in a high-demand environment, which is leading to delay for children. Delay is a complex phenomenon. All agencies across the family justice system contribute to it. It does not exist just within FPAS, as the following diagram sets out.



This diagram draws on the finding from the Magistrate’s Courts Service Inspectorate’s publication ‘Tackling delay’ (2004), which reported on delay in the English family justice system and the Children and Family Court Advisory and Support Service (Cafcass).

25. Delay is detrimental to children’s interests. Too much delay is evident for children in Guernsey. Solving the issue of delay will require the engagement and effort of all partners. For example, all agencies need to give clearer realistic messages about the service FPAS can offer after proceedings are complete.
26. Delay is present at different points of the journey for children. It is a factor in the time taken from referral to the FPAS service to when an FPA is allocated. There is also delay between the time allocated to the actual work starting with children and families. More than a quarter of current cases have had an FPA involved for more than 12 months. The average time for a case to be open within the service is 18 months. Even allowing for the complexity of the work undertaken, this is not a timely response for children.
27. Having a waiting list means that some children are waiting too long for the assessment of their circumstances to start. The practice of allocating to a named FPA who does not have time or space to begin the work offers a false impression of how the service is managing. It also places pressure on individual staff already at the limit of their capacity.
28. Children’s circumstances are being presented at court where the FPAS is unable to respond. This is being managed, in part, by extending filing dates. The court system is relatively understanding of the capacity issues. However, deadlines are extended because of the FPAS waiting list and this means that the outcome for the child is delayed. FPAS practice and how staff prioritise

case work needs to be better focused on meeting the original deadlines set for them by the court. This will help minimise any delay for children.

29. There is no single answer to reducing delay. Private law work is not triaged effectively, which could reduce delays. Triage would give an opportunity for practitioners to speak with parties (by telephone) before the first hearing. This would enable practitioners to:
- identify safeguarding risks to children
  - safely divert parties to alternative dispute resolution approaches, such as mediation
  - signpost parties to other more appropriate family support services
  - prioritise cases before the first hearing.
30. FPAS is not currently working with the judiciary before hearings to explore the priority of each case. There is no opportunity to understand which cases should be prioritised for allocation to an FPA and the order of the court list to help make most effective use of the FPA's time.
31. The FPAS offers mediation. This can provide a constructive alternative dispute resolution for parents and carers. In some cases, mediation is being offered either where parties show an ability to find their own solutions or in cases where the acrimony is so entrenched that mediation is untenable. Stakeholders describe mediation as significantly underdeveloped and under-used by FPAS. A triage in private proceedings could provide an important opportunity to assess a party's motivation to engage in a non-court based solution. This in turn could help reduce demand and delay.
32. The FPAS service employs experienced and highly skilled social work practitioners. The courts make a substantial number of appointments of experts to advise on matters ranging from the sexual risk posed by an individual to children through to assessing parenting capacity. While there will always be a need to appoint some experts, the FPAS service is under-using the expertise that lies within its workforce. Using this better could lead to fewer expert appointments and contribute to more timely resolution of proceedings for vulnerable children.

### Section 3: Partnership working

Recommendation 5: The FPAS leadership team undertakes work with the children's convenor and other family justice agencies to promote appropriate interpreting of the legislation and associated practice implications.

33. Some staff across the FPAS and other agencies have not yet fully embraced the importance of the Tribunal and the core principles of the law.<sup>5</sup> This leads to a lack of consensus about when children should be supported through the Tribunal.

Recommendation 6: A cross-agency forum is established with appropriate decision-making powers to address cross-system family justice issues.

34. The FPAS exists in a complex island family justice system. There is a range of stakeholders within this system including the judiciary, advocates, social workers and their managers and court administration. There is an established Safeguarder [FPAS] Service Advisory Committee established under the law,<sup>6</sup> which has clear functions in relation to FPAS and its staff. However, currently there is not a strategic forum where system-wide issues can be brought for resolution. Such a forum will be necessary if FPAS is to broker the changes and improvements set out in this report's recommendations.

Recommendation 7: If the States of Guernsey commission a further inspection for this area of service, they consider a joint inspection of the health and social care service and FPAS so that the interface between the two and how it works for children and families is better understood.

35. Long-standing arrangements for delivering public services can often support an entrenched culture that is resistant to change. While there is some of this culture within Guernsey's family justice arrangements, stakeholders have shown an impressive desire to embrace change. They show that they want to improve FPAS and family justice system practice and to achieve swifter and improved outcomes for the island's most vulnerable children.

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<sup>5</sup> The Children (Guernsey and Alderney) Law, 2008.

<sup>6</sup> The Children (Miscellaneous Provisions) (Guernsey Alderney) Ordinance, 2009



## Summary of recommendations

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