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**Family Dispute Resolution Pilot**

**Proposal - Key Points**

**Aim of the Pilot**

To ensure that parents/carers, who are in dispute over contact arrangements for their child/children, fully explore the different options available to them for resolving their differences. This will be done by way of a Family Dispute Resolution Information Meeting which will ensure that families, and particularly children, have the best possible chance of a positive outcome when their parents live apart due to separation, divorce or family re-structuring.

**Contact Actions and Court Areas**

The pilot will focus on *contact* actions raised in 4 court areas – Hamilton, Paisley, Dumbarton and Aberdeen

**The Family Dispute Resolution Information Meeting**

* a one to one session with a specifically trained mediator to explore options for resolving the dispute.
* meetings would take place with each parent/carer individually at a different time from the other parent, usually with the same mediator unless there were issues with logistics. When necessary, the Information Meeting could take place remotely by way of video call.
* would last for about an hour and no more than 90 minutes.
* would be carried out by a mediator on the Register of an organisation approved by the Lord President to provide mediation for the purposes of the Civil Evidence (Family Mediation) (Scotland) Act 1995. Currently the two organisations that fulfil this requirement are Relationships Scotland and CALM Scotland (Comprehensive Accredited Lawyer Mediators).
* the same cost to provide this service would be charged by both organisations and covered by Scottish Government/SLAB.
* would primarily be an information exchange and would include consideration as to the suitability of mediation or other forms of dispute resolution (including solicitor negotiation and court). There would be no requirement or pressure to continue to a joint mediation session.

All matters discussed at the Information Meeting would be confidential. Both parties and the mediator would sign a Confidentiality Agreement.

*Once both parents/carers had attended the Information Meeting, a Certificate would be signed by the mediator conducting the Information Meeting regarding the outcome of that meeting. If it is not appropriate to resolve matters by way of mediation, the relevant Certificate would simply confirm that mediation had been considered and was not appropriate. No specific details would be provided as to why mediation was not an appropriate way to resolve the issues arising as such information would be confidential. Any parent/carer who does not want to resolve matters by way of mediation, for whatever reason, would receive a certificate stating mediation was not suitable.*

If for statistical reasons it was thought helpful for information to be produced showing why mediation was not suitable, such information will be recorded and collated on an anonymous basis.

Following the Information Meeting, it would be for the parties to determine how they wished to proceed. In those cases where Mediation took place following the Information Meeting, the relevant statistics would be ingathered by the Mediators and SLAB.

# Parents would be encouraged to participate in Parenting Apart as appropriate.

**Legal Aid and Funding**

Where a parent/carer is in receipt of advice and assistance they will be able to attend a Family Dispute Resolution Information Meeting at any point prior to an application for civil legal aid being made. Where a parent/carer wishes to apply for civil legal aid, before the civil legal aid application can be processed, the person applying for civil legal aid will be required to attend or have attended a Family Dispute Resolution Information Meeting.

Template increases will be available under the Advice and Assistance Scheme to cover the cost of the Information Meeting. Once a template increase has been obtained, the solicitor acting on behalf of the parent/carer would contact the administrator of the pilot scheme to make arrangements for the parent/carer to meet with a mediator for the Information Meeting. An invoice would be rendered by the administrator of the pilot to the instructing solicitor who would then pay the fee as an outlay via the SLAB Reimbursement Scheme.

Where civil legal aid is applied for and the other parent is in receipt of advice and assistance, it will be a condition of advice and assistance continuing for the parent (not applying for legal aid) that he/she also attend an Information Meeting.

If the other parent/carer is not in receipt of advice and assistance, the cost of such a parent/carer attending the Information Meeting will be met by SLAB. There will be an additional template available to the instructing solicitor to meet the costs of the non-legally aided parent attending the Information Meeting.

It will not be compulsory to attend an Information Meeting. However, in the event of a parent/carer not wishing to attend an Information Meeting it is anticipated that SLAB will require a parent/carer who wishes to rely upon either advice and assistance and/or civil legal aid to indicate why they did not wish to attend such a meeting. It would then be for SLAB to determine whether or not it is reasonable, in all the circumstances of the case, for legal aid to continue or for civil legal aid to be granted

**Stakeholders**

Prior to the commencement of the pilot, CALM Scotland and Relationships Scotland will make contact with stakeholders including the Family Law Association, the Law Society of Scotland, Scottish Women’s Aid, Families Need Fathers Scotland, One Parent Family Scotland, Parenting Across Scotland, Fathers Network Scotland, the Children and Young People’s Commissioner Scotland, The Judicial Institute and the Scottish Women’s Rights Centre to explore with them the purpose of the pilot and to engage with solicitors and other organisations in the pilot areas.

**Commencement and Training**

The pilot would commence in April 2017. During the first six months of the pilot, the mediators who will conduct the Information Meetings within the four Court areas will undergo appropriate training, including training in domestic abuse and child protection. This training will be similar to the training CALM and Relationships Scotland mediators now undertake on understanding domestic abuse and risk. There will be a proactive approach to domestic abuse to ensure that there is appropriate screening at the Information Meetings and that information is given to parents/carers about organisations which can provide advice and support.

**Duration of Pilot**

Information Meetings will then be conducted for a period of approximately 12 months. In order to manage statistics and evaluate the effectiveness of the pilot, the Information Meetings will cease either after a period of 12 months or once there have been 1000 individual Information Meetings, whichever is the earlier.

**Mediators**

24 mediators (consisting of both CALM and Relationship Scotland mediators) will participate in the pilot – 10 mediators in Hamilton, 10 mediators in Paisley/Dumbarton and 4 mediators in Aberdeen. At the conclusion of the pilot, there will be a period of six months for evaluation and review of the pilot and for statistics to be analysed.

**Gathering of Information**

During the pilot period when Information Meetings are taking place, information will be gathered by the mediators, the instructing solicitors and SLAB completing approved forms. These forms will detail the information required to assess the project, including the following:-

* The date when the referral was made to the pilot project for an Information Meeting to take place.
* When the Information Meeting took place.
* How matters were then taken forward - mediation, solicitor negotiation, court etc.
* If mediation was not deemed suitable, the reasons for this, on an anonymous basis.
* If the parents/carers thereafter attended mediation and if so if mediation was concluded.
* If the parents/carers resolved matters by agreement, if so how this was achieved e.g. agreement with each other/solicitor negotiation.
* If matters proceeded to court.
* If known, whether or not matters were resolved.
* The costs incurred in having the case concluded.
* If possible, follow-up would take place within 2 years of the pilot to ascertain whether or not any further disputes arose between the parents/carers who took part in the pilot regarding contact arrangements which were put in place during the life of the pilot.

**Administration of Pilot**

When the level of funding for the pilot is known, an Administrator would be appointed to oversee the pilot, liaise with SLAB and the Scottish Government and gather the statistics necessary to make the relevant reports at the conclusion of the pilot.

**Cost Savings**

Based upon SLAB statistics, the average cost of a contact case which requires to proceed to Court is £3,200. In many of these cases a Bar/Child Welfare Report is called for, the average cost of which is £2,700.

Based upon these figures, if 10% of the parents in the pilot project do not proceed to Court, there is confidence that the savings made from the reduction in legally aided court actions would mean that the funding required for the pilot would be cost neutral. Potentially, the pilot could, more than likely, result in net savings to the public purse.