

A regular column in which people explain how government policy affects their working lives

Children's Lawyer

Interview by **Matt Ross**

This issue we meet a solicitor-advocate working in child protection: a partner in an inner city law firm, with 20 years' experience representing both legal aid-funded and private clients

"I do a lot of work for Cafcass, the public agency that appoints guardians' to protect the interests of children – often those in care proceedings or subject to disputes between separating parents. And my overwhelming impression is that things are becoming more centralised and prescriptive. A command and control model is

espoused in public services, with an emphasis on making things process-driven and standardised; under those conditions, it's impossible to provide a bespoke service.

One of the big changes in recent years has been the introduction by the Legal Services Commission (LSC)

can be made in the grey area before you reach that stage.

Partly as a result of these changes, whereas 20 years ago there wasn't a big discrepancy between the rates you earned doing legal aid and private work, today the discrepancy is so vast that if you're in a mixed practice it can be difficult to persuade the partners doing private work that there's a business case for doing legal aid work.

Nowadays, large numbers of experienced lawyers are leaving this field for more lucrative work. There have been huge reductions in the number of people on the Children's Panel of the Law Society, and there aren't many young people coming through. This isn't just about fees: a lot of it is about student debt accumulated while people are at law school and in professional training. But the combination means that young solicitors have to earn a good wage – and there are trainee solicitors in the City, even in the current climate, who earn more than I do.

The LSC says it has adopted a collaborative approach – but that was part of the settlement reached as a result of the Law Society's judicial review of the LSC; so you might say it's been imposed on them. They talk about devolution of decision-making and faster IT

systems – but the devolution is a fairly narrow, limited sphere; and the online system isn't very streamlined. The LSC has some really good individuals – people who listen carefully and bend over backwards to work with us – but I'm not convinced that this attitude permeates through to the more senior levels of management.

Meanwhile, the Legal Services Act 2007 is enabling outside investors to invest in solicitors firms, and opening up the profession to wider competition. This isn't necessarily a bad thing; why shouldn't things be opened up a bit? But it's got to be done in a clear and transparent fashion: the risk is that, where for example the Co-op or the AA start providing wills, they'll seek to sell other services under the guise of independent advice. We have to be clear about whether we're treating people as consumers or clients: the best definition is that we give consumers what they want, and advise clients on what they need.

As for the courts system, that works very hard: some are shining beacons of good practice. In some areas, all the public agencies work well together – and a lot of that's down to the local authority. Some councils – often the wealthier ones – are

well organised; some without those advantages just about manage; and others are permanently in chaos.

There are court delays, though, because more stringent criteria for legal aid eligibility, plus the introduction of means-tested contributions towards costs by those found guilty, mean that more defendants are representing themselves. So you don't get as many negotiated agreements that can quickly receive a judge's approval, and in court lay people can't weave their way through the procedures as quickly as professionals; the family courts are getting massively clogged up.

There are further delays because Cafcass is facing a huge crisis in its ability to provide children's guardians in care cases. There's a big backlog in this city, so children's solicitors have to do more – and while there's Law Society guidance limiting what we're supposed to do, when you're acting for a child you can't sit on your hands. Cafcass would say there are funding issues; I'd say that it's an ineffective bureaucracy that can't deliver.

The government has done some things to make life easier, in particular the aspiration to improve the technology around legal aid, online billing, and – I hope – the development of a genuinely collaborative working relationship with the LSC. But the government needs to trust us as committed professionals; we know that the coffers aren't bottomless, and we want to have a proper, grown-up relationship." ■

