



FLAGS was invited to provide oral evidence to the Justice Committee of the Scottish Parliament and on 6th March our Chair, Isabella Ennis, attended an evidential session.

The Justice Committee has been taking evidence as part of its consideration of alternative dispute resolution and following an earlier hearing, decided to explore the provision of ADR in the context of family law. FLAGS was honoured to have been invited to, and provide, evidence contributing to this important work.

The questions from the Justice Committee showed a real engagement in the question of appropriate provision of alternative choices to traditional litigation for families in dispute. The evidence session provided a useful opportunity to advance the availability of FLAGS as a direct alternative to litigation that was driven by the specific needs of the parties and focused upon the dispute they sought to have resolved.

The Justice Committee noted that the current court system was not able to provide the "one family, one judge" approach that ensured continuity in the family's case. It was helpful to be able to provide evidence that this is exactly what a FLAGS arbitrator provided: consistent expert decision making throughout the dispute, from procedural decisions to conclusion, making it more efficient, focused and better for the interests of the whole family engaged in that case. However, it was emphasised that the lack of legal aid funding for family law arbitration and the consequent lack of equality of options that afforded to parties was not reasonable.

The Justice Committee heard evidence that FLAGS promoted training and education among our membership and that this included local pod trainers across Scotland providing local training, a designated training and education committee member and regular national training. In addition, FLAGS was able to point out that our commitment to education extended to inviting an academic from Edinburgh University to our recent AGM. FLAGS was keen to participate in legal education also and would welcome any approaches from academics for contributions to their work.

The Justice Committee sought evidence that in an alternative dispute resolution setting, there would still be scope to allow for the "voice of the child" to be heard in that process. It was reassured that any FLAGS arbitrator would only make a determination that related to a child having regard to Scots Law and in particular the clear provisions of the Children (Scotland) Act 1995.

Other topics were covered and it is to be hoped that the Justice Committee considered that the evidence offered to it by FLAGS of the benefits of family law arbitration with a FLAGS arbitrator provided a useful means for families to resolve their disputes. FLAGS arbitration was one of a range of alternatives to litigation. There was no single method of dispute resolution that was universally suited to all cases but family law arbitration would suit many and ought to be available to all, not just those capable of funding it.

The Report of the evidential session will be available online soon.

Isabella Ennis
Chair

6th March 2018