



Ministry of
JUSTICE

Family Procedure Rule Committee

ANNUAL REPORT 2015 – 2016

This annual report of the Family Procedure Rule Committee for April 2015 – March 2016 includes references to rules made during the period of the report, the Committee's terms of reference, membership and dates of meetings.

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1. Terms of Reference

The Family Procedure Rule Committee (“the Committee”) is an Advisory Non-Departmental Public Body sponsored by the Ministry of Justice. Its function is to make rules of court governing the practice and procedure in family proceedings in the High Court and the family court. Its power to make rules is to be exercised with a view to securing that the family justice system is accessible, fair and efficient and the rules are both simple and simply expressed. Before making rules the Committee must meet and discuss proposed rules (unless it is inexpedient to do so) and consult such persons as it considers appropriate.

2. Background

The Committee was established in 2004 in accordance with the provisions of the Courts Act 2003.

3. Membership

The Committee comprises the following members:

The Right Honourable Sir James Munby – President of the Family Division (Chair)

The Right Honourable Lord Justice Ryder – Court of Appeal Judge (*resigned 17 February 2016*)

The Right Honourable Lord Justice McFarlane – Court of Appeal Judge (*appointed 21 February 2016*)

The Honourable Mrs Justice Theis – High Court Judge

Her Honour Judge Alison Raeside – Circuit Judge

District Judge Chris Darbyshire – District Judge (County Court)

District Judge Paul Carr – District Judge (Magistrates’ Courts)

Marie Brock JP – Magistrate

Richard Burton – Justices’ Clerk

William Tyler QC - Barrister

Michael Horton – Barrister

Hannah Perry – Solicitor

Dylan Jones – Solicitor

Mike Hinchliffe – Cafcass (*resigned 2 November 2015*)

Melanie Carew – Cafcass (*appointed 1 December 2015*)

Jane Harris – Lay Advice Member

4. Remuneration

The Chair and members are not remunerated for their service on the Committee.

5. Meetings

The Committee met on 20 April 2015, 18 May 2015, 15 June 2015, 13 July 2015, 5 October 2015, 2 November 2015, 7 December 2015, 1 February 2016 and 7 March 2016.

6. Working Parties

The Committee establishes working parties to consider the detail of rules relating to specific types of family proceedings. During the period of the Report, the following working parties were in existence: Vulnerable Witnesses and Children Working Group, Financial Proceedings Working Party and the Setting Aside Orders Working Party.

The dates each of the working parties met during the period of the Report are as follows: the Financial Proceedings Working Party met on 10 June 2015 and 2 July 2015 and the Vulnerable Witnesses and Children Working Group met on 7 March 2016. The Setting Aside Orders Working Party have not met since 4 March 2015 and it was agreed that this working party would meet again if required.

7. Family Procedure Rules

The Family Procedure Rules, which were made by the Committee on 13 December 2010, came into force on 6 April 2011.

The rules are contained in 38 Parts covering different areas of procedure and different types of proceedings. Under the provisions of the Courts Act 2003, rules may, instead of providing for any matter, refer to provision made about that matter in directions. Accordingly, much of the detail of the procedure is contained in Practice Directions supplementing the Parts of the Rules.

The Committee adopted the following principles in development of the rules:

- i. Modernisation of language,
- ii. Harmonisation with the Civil Procedure Rules to the extent that it is appropriate,
- iii. Creation of a single unified code of practice in addition to rules and
- iv. Alignment of procedures in all levels of Court except where there are strong reasons not to do so.

8. Family Procedure (Amendment) Rules

During the period covered by this Report, the rules were amended by three instruments. The amendments were made by the Committee in accordance with section 79 Courts Act 2003.

The Family Procedure (Amendment No. 2) Rules 2015 (S.I. 2015 No. 1420) included amendments to:

- Clarify and make adjustments to the procedure to be followed on an application for a judgment summons so that it mirrors more closely the procedure followed in the County Court as set out in Schedule 1 to the Civil Procedure Rules 1998
- Provide for the procedure to be followed on an application for a Female Genital Mutilation Protection Order in the family court
- The procedure in relation to the enforcement in England and Wales of maintenance obligations made outside of the United Kingdom

The Family Procedure (Amendment No. 3) Rules 2015 (S.I. 2015 No. 1868) included amendments to:

- Amend the definition of an “authorised family mediator”
- Insert a new rule making provision for e-mailing applications and other documents in certain family proceedings; and which make minor changes to existing rules for service by e-mail and inspection of documents held by the court
- Insert a new rule which makes provision for the disclosure of information from financial remedy proceedings to an appeal tribunal dealing with an appeal under the Child Support Act 1991

The Family Procedure (Amendment) Rules 2016 (S.I. 2016 No. 355) included amendments to:

- Clarify a point of detail in relation to taking evidence into account when deciding whether to strike out a statement of case
- Insert new parts into the rules to make fresh and freestanding procedural provision for applications for attachment of earnings orders, charging orders, stop orders and stop notices, and make associated consequential amendments
- Update a cross-reference in one provision of the rules

9. Consultations

During the period of this report the Committee was consulted on amendments to the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2014 which included proposed rule amendments. The Law Commission consulted the Committee on enforcement of family financial orders. The Committee were invited to respond to this Consultation. The Civil Procedure Rule Committee consulted the Committee on amendments to CPR Practice Direction 52.

During the period of this report, the Committee undertook the following consultations:

1. The Committee consulted widely to key stakeholders and other interested parties on the new draft rule 3A on Children and Vulnerable Witnesses looking at their participation in proceedings and giving evidence.
2. The Committee consulted judicial Heads of Division, the Council of Her Majesty's Circuit Judges, the Association of District Judges, the Family Law Bar Association, Resolution and the Association of Lawyers for Children on the proposed amendments to the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2014 and the associated rule amendments .
3. The Committee consulted key stakeholders on the draft rules and practice direction amendments to setting aside orders where there is no error of the Court.

10. Contact

Any enquiries about the work of the Committee may be addressed to:

Joanne Thambyrajah
Secretary
Family Procedure Rule Committee

Ministry of Justice
3rd Floor
3.32
102 Petty France
London
SW1H 9AJ

0203 334 3181

FPRCSecretariat@justice.gsi.gov.uk