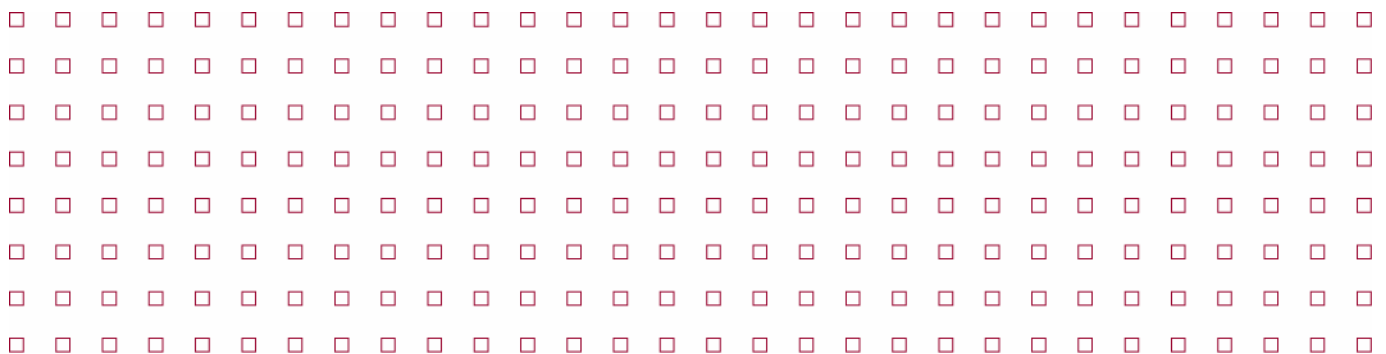




# **Family Procedure Rule Committee**

## Annual Report 2007

December 2007







Ministry of  
**JUSTICE**

## **Family Procedure Rule Committee**

Annual Report 2007

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## **Annual Report 2007**

This annual report of the Family Procedure Rule Committee for 2007 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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## **Terms of Reference**

1. 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, county courts and magistrates’ courts. 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 consult such persons as it considers appropriate and meet (unless it is inexpedient to do so).

## **Background**

2. The Committee was established in 2004 in accordance with the provisions of the Courts Act 2003. To date, the power of the Committee to make rules has been brought into force only in regard to matters relating to adoption.

## Membership

3. During the period of this report, the committee comprised the following members:

The Right Honourable Sir Mark Potter, President of the Family Division (Chair)

The Right Honourable Lord Justice Wall (Deputy Chair)

The Honourable Mr Justice Charles – High Court judge member (until 31<sup>st</sup> October 2007)

The Honourable Mr Justice Singer – High Court judge member (from 1<sup>st</sup> November 2007)

Her Honour Judge Angela Finnerty – circuit judge member

Senior District Judge Philip Waller – district judge (PFRD) member

District Judge Duncan Adam – district judge (county court) member

District Judge Katharine Marshall – district judge (magistrates' courts) member

Martyn Cook JP – magistrate member

John Baker – justices' clerk member

Jane Probyn – barrister member

Charles Hyde QC – barrister member

Susan Jones – barrister member

David Salter – solicitor member

Bruce Edgington – solicitor member

Clive Redley – solicitor member

Mike Hinchliffe – CAFCASS nominated member

Ruth Lindley-Glover – lay advice member (from 1<sup>st</sup> September 2007)

Mike Hinchliffe, Senior District Judge Philip Waller, Martyn Cook JP, Bruce Edgington and Jane Probyn were re-appointed to the Committee (their previous terms of office having expired) in 2007.



## **Remuneration**

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

## **Meetings**

5. The Committee met on 5<sup>th</sup> February, 2<sup>nd</sup> April, 14<sup>th</sup> May, 11<sup>th</sup> June, 8<sup>th</sup> October, 5<sup>th</sup> November and 3<sup>rd</sup> December 2007.

## Working Parties

6. The Committee has established working parties to develop draft Family Procedure Rules relating to different aspects of family proceedings. The working parties include individual co-opted members with particular expertise in the relevant areas of family procedure, as well as members of the Committee.

The working parties and their terms of reference are:

**(i) The Child Abduction Working Party**

“To examine and make recommendations about the manner in which the current provisions for the conduct of proceedings relating to international parental child abduction and connected matters may best be adapted to and incorporated into the Family Procedure Rules and in particular to consider:

whether provisions contained in existing practice directions or protocols and recent leading judgments are to be incorporated in rules or practice directions or set out in some other form.”

**(ii) The Children’s Proceedings Working Party**

“To examine and make recommendations about the manner in which the current provisions for the conduct of proceedings relating to children may best be adapted to and incorporated in the Family Procedure Rules and in particular to consider:

- (a) the extent to which the provisions of the Civil Procedure Rules (CPR) may be applied or adapted to children’s proceedings
- (b) whether provisions contained in existing guidance or protocols are to be incorporated in rules or practice directions or set out in some other form;
- (c) whether the provisions of the rules should be extended to include procedural matters beyond the scope of the current rules (e.g. mediation); and
- (d) rationalising the procedures for children’s proceedings across all levels of court.”

**(iii) The Experts Working Party**

“To examine current guidance on the role and instruction of experts in family proceedings with a view to considering whether a composite protocol can and should be formulated for inclusion in the Family Procedure Rules.”

**(iv) The Financial Proceedings Working Party**

“To examine the extent and the manner in which the provisions of the CPR may be applied or adapted to financial and property proceedings and to make recommendations for (i) incorporating and harmonising the relevant provisions of the CPR in formulating rules relating to financial and property proceedings and (ii) rationalising the procedures prescribed for financial and property proceedings across all levels of court.”

**(v) The Rule Harmonisation Working Party**

“To examine the extent to which and the manner in which the provisions of the CPR may be applied or adapted to family proceedings and to make recommendations for incorporating and harmonising the relevant provisions of the CPR in formulating Family Procedure Rules.”

Each working party has held meetings throughout the year and has reported back to the Committee regularly with recommendations, where appropriate.

## Family Procedure Rules

7. The most significant achievement during the period of this report was the completion of a master document containing draft Family Procedure Rules and key practice directions. The development of rules across all areas of family procedure by the Committee and its working parties led to a virtual first draft of the new Rules. This key milestone was reached in July. Subsequently, the master document has been subject to close scrutiny by members and a number of proposed amendments have been considered.

The Committee made amendments to the Family Procedure (Adoption) Rules 2005 consequential upon the implementation of the Mental Capacity Act 2005.

The amendments were made by the following statutory instrument:

2007 No. 2189 (L.19) The Family Procedure (Adoption) (Amendment) Rules 2007.

## Family Proceedings Rules

8. Pending the bringing into force of its full rule-making powers under the Courts Act, rules in relation to family proceedings in the High Court and county courts continue to be made under the provisions of s.40 Matrimonial and Family Proceedings Act 1984. Those appointed to make such rules are drawn from the Committee. With effect from the 3 April 2006 they do so as members of the Family Proceedings Rule Committee.

During the year the Committee has considered, and members of the Family Proceedings Rule Committee have made, amendments to the Family Proceedings Rules 1991:

- to make provisions giving effect to amendments to Part IV of the Family Law Act 1996 arising from the implementation of section 1 of and Schedule 10 to the Domestic Violence, Crime and Victims Act 2004;
- to make provisions giving effect to sections 6 (Family Assistance Orders) and 7 (Risk Assessments) of the Children and Adoption Act 2006;
- to enable a party to communicate information relating to proceedings to an appeal tribunal under section 20 of the Child Support Act 1991 and to an adoption panel to enable it to discharge its functions;
- arising out of the implementation of the Mental Capacity Act 2005; and
- in consequence of the Reciprocal Enforcement of Maintenance Orders (United States of America) Order 2007.

These amendments were made by the following statutory instruments:

2007 No.1622 (L.10) The Family Proceedings (Amendment) Rules 2007

2007 No. 2187 (L.17) The Family Proceedings (Amendment) (No.2) Rules 2007

2007 No. 2268 (L.22) The Family Proceedings (Amendment) (No.3) Rules 2007.

## Open meeting

9. In line with its commitment to openness in its working practices, the Committee held its second open meeting in April. Those attending observed the business of the Committee and were afforded the opportunity to put questions to the Committee.

## Contact

10. Updates on the Committee's work may be viewed on the Family Procedure Rule Committee web pages.

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

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