



Ministry  
of Justice

## **Family Procedure Rule Committee**

### **ANNUAL REPORT 2017 – 2018**

This annual report of the Family Procedure Rule Committee of April 2017 to May 2018 includes references to rules made during the period of the report, the Committee's terms of reference, membership and dates of meetings.

Contents

- 1. TERMS OF REFERENCE..... 3
- 2. BACKGROUND ..... 3
- 3. MEMBERSHIP ..... 3
- 4. REMUNERATION..... 4
- 5. MEETINGS ..... 5
- 6. WORKING PARTIES ..... 5
- 7. FAMILY PROCEDURE RULES..... 6
- 8. FAMILY PROCEDURE (AMENDMENT) RULES ..... 6
- 9. CONSULTATIONS..... 7
- 10. CONTACT..... 7

## 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 Family Division of 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 of court, 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 McFarlane – Court of Appeal Judge
- The Honourable Mrs Justice Theis – High Court Judge
- Her Honour Judge Alison Raeside – Circuit Judge
- Her Honour Judge Katherine Suh – District Judge
- District Judge Harold Godwin – District Judge
- District Judge Sally Hickman – District Judge (County Court)
- District Judge Paul Carr – District Judge (Magistrates’ Court)
- Marie Brock JP – Magistrate (*end of appointment 4 December 2017*)

- Richard Burton – Justices’ Clerk (*end of appointment* 5 March 2018)
- William Tyler QC – Barrister
- Michael Horton – Barrister
- Melanie Carew – Solicitor
- Hannah Perry – Solicitor
- Dylan Jones – Solicitor
- Rob Edwards- Cafcass
- Fiona James JP – Lay Magistrate
- Jane Harris – Lay Advice Member

The Acting Chair of the Committee is The Honourable Mr Justice Baker.

His Honour Judge Waller is not a serving member of the Committee since the expiry of his ten-year term. However, due to his expertise in financial remedy proceedings, he continues to attend meetings and contribute to the drafting of Family Procedure Rules.

The Committee’s membership was amended in 2017. The Courts Act 2003 (Amendment) Order 2017 came into force on 27 March 2017 and revised the membership of the Committee to provide a more diverse representation of the Committee. The Order made amendments to:

- Include one judge of the family court who sits primarily or exclusively in Wales;
- Include a person nominated by Welsh Ministers to represent the interests of Welsh family proceedings officers;
- Amend the position of District Judge Principal Registry of the Family Division to a District Judge who is either a District Judge of the Principal Registry of the Family or a District Judge appointed under Section 6 of the County Courts Act 1984.

These new roles have been filled as specified in the list of members.

## 4. REMUNERATION

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

Members of the Committee are permitted to submit claims to travel and subsistence expenses which are paid by the Ministry of Justice.

A register of member interest for the period of this report has been published on the Committee's website and can be found at the following link:

[https://www.gov.uk/government/publications?departments%5B%5D=family-procedure-rule-committee&publication\\_type=corporate-reports](https://www.gov.uk/government/publications?departments%5B%5D=family-procedure-rule-committee&publication_type=corporate-reports)

## 5. MEETINGS

The Committee met on the 3 April 2017, 8 May 2017, 12 June 2017, 10 July 2017, 9 October 2017, 4 December 2017, 2 February 2018, 5 March 2018, 16 April 2018, 14 May 2018.

## 6. WORKING PARTIES

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

The Vulnerable Witnesses and Children Working Group met on an ad hoc basis with Ministry of Justice Officials, HMCTS and Cafcass Cymru to further the drafting of the Children and the Vulnerable Witnesses Practice Directions prior to drafts being submitted to the full Committee for consideration and comment. The members of this working group are Mrs Justice Theis, Her Honour Judge Raeside, Marie Brock JP, Melanie Carew, Will Tyler, Hannah Perry, Dylan Jones and Jane Harris.

The Financial Proceedings Working Party predominantly communicate by email in agreeing how to implement the recommendations of the judicial Financial Remedies Working Group. The group prepares draft Rule amendments for consideration by Ministry of Justice officials

prior to their full consideration by the Committee. His Honour Judge Waller regularly updates the Committee of the work of this group. The members on this working group are His Honour Judge Waller, District Judge Suh, District Judge Carr (Magistrates' Court), Richard Burton and Michael Horton

The Forms Working Group meet after Committee meetings as required to discuss proposed amendments to family forms. The members on this working group are His Honour Judge Waller, District Judge Carr, Marie Brock JP, Richard Burton, Dylan Jones.

## **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 40 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 two instruments. The amendments were made by the Committee in accordance with section 79 Courts Act 2003.

The Family Procedure (Amendment) Rules 2017 (S.I. 2017 No) came into effect on 6 April 2017. These included amendments to:

- Amend parts of the FPR 2010 which set out the procedure for serving applications for various types of protective orders, and for serving such orders, on a respondent. The relevant types of applications and orders are non-molestation orders, occupation orders, forced marriage protection orders and female genital mutilation protection orders. The proposed amendments make clear that the applicant should not him or herself hand the papers to the respondent.

The Family Procedure (Amendment) Rules 2018 (S.I 2018 No) came into effect on 4th June 2018

- Amend the provisions of the FPR 2010 Rule 4.1 enabling Judges to direct appropriate proceedings to be heard by a Divisional Court.

## 9. CONSULTATIONS

During the period of our last Annual Report 2016 -2017 the Committee consulted on the Vulnerable Witnesses Practice Direction. The Consultation was sent to targeted stakeholders but was also published on the Committee's website at: <http://www.gov.uk/government/consultations/vulnerable-witnesses-practice-direction>.

The Consultation closed on 17 March 2017 with the outcome of introducing new Part 3A Family Procedure Rules 2010 with supporting Practice Direction 3AA.

## 10. CONTACT

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

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