



Ministry of
JUSTICE

Family Procedure Rule Committee

ANNUAL REPORT 2011 – 2012

This annual report of the Family Procedure Rule Committee for April 2011 – March 2012 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, County Courts and Family Proceedings 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 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

During the period of the report the Committee comprised the following members:

The Right Honourable Sir Nicholas Wall, President of the Family Division (Chair)

The Right Honourable Lady Justice Black – Court of Appeal judge

The Honourable Mrs Justice Theis – High Court judge

Her Honour Judge Angela Finnerty – Circuit Judge

Senior District Judge Philip Waller CBE – District Judge (Principal Registry of the Family Division) (Deputy Chair)

District Judge Duncan Adam – District Judge (County Court) (*Until 1 May 2011*)

District Judge Chris Darbyshire – District Judge (County Court) (*From 1 August 2011*)

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

Martyn Cook JP – Magistrate

John Baker – Justices’ Clerk (*Until 31 October 2011*)

Richard Burton – Justices’ Clerk (*From 1 November 2011*)

John Wilson QC - Barrister

Charles Hyde QC – Barrister

Tim Becker – Barrister

David Salter – Solicitor

Bruce Edgington – Solicitor

Clive Redley – Solicitor (*Until 31 October 2011*)

Sunita Mason – Solicitor (*From 1 November 2011*)

Mike Hinchliffe – CAFCASS

Ruth Lindley-Glover – Lay Advice Member

4. Remuneration

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

5. Meetings

The Committee met on 9 May 2011, 11 July 2011, 10 October 2011 and 12 December 2011 and 6 February 2012.

6. Working Parties

The Committee established 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: The Costs Working Party and the Forms Working Party.

The dates each of the working parties met during the period of the Report are as follows: the Committee's Costs Working Party met on 6 February 2012 and 29 February 2012 and the Forms Working Party met on 23 August 2011.

7. Family Procedure Rules

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

The rules are contained in 36 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.

Individual members supported the implementation of the rules by delivering lectures and writing articles in order to raise awareness among practitioners of the changes in procedure. Additionally, the Committee assisted with the development of a number of statutory instruments made to coincide with the coming into force of the rules, including the Justices' Clerks (Amendment) Rules 2011, the Family Procedure (Modification of Enactments) Order 2011, the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2011 and the Magistrates' Courts (Enforcement or Variation of Orders Made in Family Proceedings and Miscellaneous Provisions) Rules 2011.

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 following a period of consultation in accordance with section 79 Courts Act 2003.

The Family Procedure (Amendment) Rules 2011 [S.I. 2011 No. 1328 (L.9)] amended the rules to take account of the application of Council Regulation (EC) No.4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and co-operation in matters relating to maintenance obligations ("the Maintenance Regulation") from 18 June 2011.

The Family Procedure (Amendment) Rules 2012 [S.I. 2012 No. 679 (L.3)] made minor miscellaneous amendments covering matters deferred from the 2010 Rules and to clarify existing rules following suggestions from members and others.

9. Consultations

The Committee gave consideration to a number of proposals, upon which it was consulted during the course of the year, including:

The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 which made provision to facilitate the application of the Maintenance Regulation;

The European Commission's proposals for Council Regulations on Jurisdiction, Applicable Law and the Recognition and Enforcement of Decisions in Matters of Matrimonial Property Regimes and Regarding the Property Consequences of Registered Partnerships;

A Practice Direction issued by the Lord Chief Justice setting out procedures for the handling of work in relation to county court closures;

A consultation issued by the Department for Work and Pensions on the abolition and transfer of functions of the Child Maintenance and Enforcement Commission.

Additionally, John Baker, Justices' Clerk member of the Committee, drafted a guidance note relating to the exercise of the powers of the family proceedings courts to make a child a party, the appointment of a litigation friend and the staying of proceedings. The guidance was issued with the approval of the President and the Committee.

The Committee also authorised the making of a practice direction to enable a pilot scheme to be operated on Merseyside permitting the electronic submission of applications in Form C100 in children's proceedings.

10. Family Justice Review

Following the Government's response to the Family Justice Review, the Committee invited Mr Justice Ryder, who was appointed by the Lord Chief Justice and the President as the Judge in Charge of Modernisation of Family Justice to attend its February 2012 meeting. The judge outlined the work he was undertaking and indicated he would be seeking the Committee's input and inviting it to make rules in relation to a number of work strands he identified.

11. Contact

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

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