



Ministry of Justice

FAMILY PROCEDURE RULE COMMITTEE

In person at QB1M, Queens Building, Royal Courts of Justice

And remotely via Microsoft Teams

At 10.30 a.m. on Monday 9 May 2022

Present:

Sir Andrew McFarlane	President of the Family Division
Mrs Justice Theis	Acting Chair
Lord Justice Baker	Court of Appeal Judge
Mr Justice Mostyn	High Court Judge
District Judge Suh	District Judge
Her Honour Judge Williams	Representing District Judge
Fiona James	Lay Magistrate
Michael Seath	Justices' Clerk
Poonam Bhari	Barrister
Rhys Taylor	Barrister
Melanie Carew	Children and Family Court Advisory Support Service
Rob Edwards	Children and Family Court Advisory Support Service (CYMRU)
Graeme Fraser	Solicitor
Bill Turner	Lay Member

Guest:

Mrs Justice Knowles	High Court Judge
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ANNOUNCEMENTS AND APOLOGIES

- 1.1** Apologies were received from Her Honour Judge Raeside, His Honour Judge Godwin, District Judge Branston and Tony McGovern.

MINUTES OF THE LAST MEETING: APRIL 2022

- 2.1** The Committee agreed that the minutes of the April 2022 meeting, bar one minor change, were an accurate record.

ACTIONS LOG

- 3.1** MoJ Policy reported that 24 action points were raised at the April 2022 meeting and that all will be covered during the course of the meeting.

MATTERS ARISING

Update on Justice Website Corrections

- 4.1** MoJ Policy reported that since the April 2022 meeting some small corrections had been made.
- 4.2** MoJ Policy also reported that an update had been made to the 'About Us' page on Gov.uk to include a link to the Governance Code on Public Appointments.

Opposite Sex Civil Partnerships

- 4.3** MoJ Policy confirmed that Cabinet Office colleagues intend on laying the relevant SI in advance of the 2022 Summer Recess.

DDSA Implementation

- 4.4** MoJ Policy reported that positive feedback had been received following the implementation of the Divorce, Dissolution and Separation Act 2022 and its related measures, which went live on 6 April 2022.

Annual Report and Register of Members Interests

- 4.5** MoJ Policy reported that it will begin work shortly on drafting the Committee's annual report for the period April 2021 to March 2022. As part of this exercise the Secretariat will circulate a request that members complete a declaration of interests return.

Future Committee Workstreams

- 4.6** MoJ Policy informed the Committee that several issues which had been scheduled for discussion at the April 2022 meeting would now be included as part of the June 2022 Agenda, due to competing priorities and high workloads.

ACTION POINT 1: 'PD27A/PFD e-bundle guidance/FR efficiency statement'; and the 'Relationship between Rules, PDs and Guidance Notes' to be added to the June agenda.

ACTION POINT 2: 'Permission to Appeal' to be added to the June agenda.

ACTION POINT 3: Additional appeals-related questions raised to be added to the priorities table.

Independent Domestic Violence Advisors and Independent Sexual Violence Advisors

- 4.7** MoJ Policy reported on the issues raised in the April meeting in relation to Independent Domestic Violence Advisors (IDVAs) and Independent Sexual Violence Advisors (ISVAs) and their attendance at hearings.
- 4.8** The Committee requested that MoJ Policy prepare an introductory paper to give an overview of the issue and background, to include the question of whether IDVAs and ISVAs should be able to attend hearings as a right.

ACTION POINT 4: MoJ Policy to provide a paper for the June 2022 meeting

PD5A and Form E/ E2

- 4.9** In relation to the proposal that Form E (not E2, as it currently the case) should be used on an application to capitalise a periodical payments order, MoJ Policy reported that PD amendments would be made once the relevant forms have been updated, in consultation with the Forms Working Group.

ACTION POINT 5: Forms E/E2 to be added to the work schedule for the Forms Working Group.

PRIORITIES TABLE AND PD UPDATES

- 5.1** MoJ Policy updated the Committee as to where some of the items listed on the Priorities Table fit in with the agenda. The Committee asked that additional time be provided to discuss FPRC priorities in its June meeting.
- 5.2** The Committee raised an issue on the Priorities Table in relation to moving small money cases into the FPR Part 9 fast track, rather than the standard track procedure applying. The Committee asked whether a plan of how to approach the issue could be brought to the June meeting.
- 5.3** On the PD priorities annex, the Committee noted that a large number of pilots are due to expire in the second half of 2022 and asked for a schedule covering the plans for when the Committee will reconsider these pilots be provided to the June meeting.

ACTION POINT 6. MoJ Policy and MoJ Legal to produce a paper on 'small money' cases to be brought back in June.

ACTION POINT 7: MoJ Legal and MoJ Policy to produce a schedule detailing which Practice Directions are due to be put before the Committee to help focus on workloads.

STANDING ITEMS

DOMESTIC ABUSE ACT IMPLEMENTATION

a) Cross-Examination

- 6.1** MoJ Policy updated the Committee on progress following the FPRC consultation on proposed New Practice Direction 3AB of the FPR 2010 on the prohibition of cross-examination in person in family proceedings.

- 6.2** The Committee provided a number of drafting amendments to the Practice Direction. The Committee also asked whether further information could be provided in relation to the operation of the new scheme.

ACTION POINT 8: MoJ Legal and Policy to consider the points raised on Practice Direction 3AB and to make the appropriate draft amendments.

ACTION POINT 9: MoJ Policy to update the Committee on the queries raised.

b) DAPNs and DAPOs

- 6.3** MoJ Policy presented options for an enabling ‘hook rule’ for a future Domestic Abuse Protection Order (DAPO) pilot Practice Direction. The Committee made clear its preference for the second option that was presented by MoJ Policy, because it offered a better level of clarity.

ACTION POINT 10: MoJ Legal and MoJ Policy to add the “hook rule” to the next FPR amending Statutory Instrument.

SUBSTANTIVE ITEMS

DEED POLL NAME CHANGES

- 7.1** MoJ Policy provided a brief update on the deed poll name change work and clarified the proposed approach to amending the Regulations in relation to name changes for 16 and 17year olds.
- 7.2** The Committee asked for a further update in June.

ACTION POINT 11: MoJ Policy to provide an update at the June FPRC meeting

INFORMATION SHARING – IMMIGRATION PROCEEDINGS

- 8.1** MoJ Policy said that the position as reported at previous Committee meetings had not changed and there had been no substantive feedback the Home Office or the Government Legal Department.

ACTION POINT 12: MoJ Policy to invite Home Office officials from to attend the June FPRC meeting.

ONLINE PROCEDURE RULE COMMITTEE

- 9.1** MoJ Policy provided the Committee with an update on the creation of the Online Procedure Rule Committee (OPRC)
- 9.2** The Committee expressed an interest in receiving ongoing updates as the new Committee develops.

ACTION POINT 13: Online Procedure Rule Committee item to return at the July 2022 meeting

TRANSPARENCY

- 10.1** MoJ Policy provided an update on the progress with this area of work and asked for the Committee's view on establishing the Media Reporting Pilots. The Committee made a number of points in relation to the draft Design Plan for the pilots.

ACTION POINT 14: MoJ Legal/Policy to update PD for the June FPRC meeting

ACTION POINT 15: MoJ Legal to consider the vires concern raised and to report back in June.

POLICE DISCLOSURE ORDERS IN PRIVATE LAW PROCEEDINGS

- 11.1** MoJ Policy and Legal updated the Committee on their work on this issue since the April 2022 meeting.
- 11.2** The Committee accepted the proposed amendments to PD12B and agreed that the President of the Family Division's ('The President's') Office would communicate advance notice of any changes to courts, to ensure that those operating under the flexibilities offered by PD36Y were aware of the new procedures.

ACTION POINT 16: MoJ Policy and Legal to prepare consultation document for review at June 2022 meeting

ACTION POINT 17: MoJ Policy and Legal to work up draft amendments to PD12B (Pilot) and PD12J and seek to agree these before the June FPRC meeting.

ACTION POINT 18: PFD's Office to prepare communication to inform courts using flexibilities under PD36Y of the changes

G v G – INTERNATIONAL FAMILY WORKING GROUP

- 12.1** MoJ Policy provided the Committee with an update on the work to introduce amendments to Part 12 of Family Procedure Rules 2010 to deal with international child abduction return cases with a linked asylum claim as proposed by the International Family Working Group (IFWG).
- 12.2** The Committee approved the proposed wording of the draft rule and agreed that no further consultation was necessary beyond the consultation that had already been undertaken of and by members of the International Family Working Group. Members also agreed that the President's Office would inform the Scottish and Northern Irish judiciary of the changes.

ACTION POINT 19: The final version of the draft rule to be added to the next FPR amending SI.

ACTION POINT 20: PFD's Office to inform Scottish and Northern Irish judiciary of the changes.

H v ADOPTION AGENCY WORKING GROUP

- 13.1** MoJ Policy confirmed that DfE have accepted an invitation to join the Working Group. The Working Group will next be meeting during the week of 16 May 2022 to discuss its next steps.

ACTION POINT 21: Update at June meeting, following May WG meeting.

CONTESTED FR ONLINE

- 14.1** The Chair confirmed that Mr Justice Cobb had agreed that all future discussions concerning the FR digital service would be held under the 'Reform' umbrella rather than with the Committee.

ACTION POINT 22: The Committee agreed that this should be taken off the list of discussion issues

FORWARD PLANNING AND UPCOMING MEETINGS

OTHER PROCEDURE RULE COMMITTEES AND FAMILY PROCEDURE RULE COMMITTEE LINK

- 15.1** MoJ Policy met separately with the Secretaries of the Civil Procedure Rule Committee, the Court of Protection Rule Committee and the Criminal Procedure Rule Committee as part of their regular series of meetings. No specific points of interest for the Committee were raised in discussion.

FORMS WORKING GROUP UPDATE

- 16.1** MoJ Policy reported that the pressing exercise for the Working Group was to clear the form amendments relating to the Domestic Abuse Act Cross-Examination changes. The Committee thanked the Working Group members for undertaking the exercise remotely and in short time.

FPRC WORKING GROUPS

- 17.1** MoJ Policy confirmed that no further changes to the table had been made since the update provided in April. The Committee requested that changes be made to the Costs Working Group to reflect Mr Justice Mostyn is to be replaced by Mr Justice Peel.

ACTION POINT 23: FPRC Costs Working Group membership to be updated

DRAFT JUNE 2022 AGENDA

- 18.1** MoJ Policy advised that the draft June 2022 agenda would be updated following this meeting.

ANY OTHER BUSINESS

a) Cases Involving Intimate Images

- 19.1** The Committee were informed that Mrs Justice Knowles recently spoke at a family private law training course where a number of attendees had cases involving intimate images and that she had recently given a judgment in a case with similar issues.
- 19.2** The Committee proposed that in the first instance this should be taken away by MoJ Policy officials for consideration.

ACTION POINT 24: MoJ Policy to consider and update the Committee on the timeline for work on issues relating to disclosure in proceedings of intimate images to the June meeting

b) Levels of Legal Fees

- 19.3** The Committee were asked to consider a recent Judgment in the case of Xanthopoulos v Rakshina in which Mr Justice Mostyn made a call for urgent work to limit legal fees in divorce / financial remedy cases. The Committee proposed that this issue be looked at by the Costs Working Group.

ACTION POINT 25: MoJ Policy to invite the Costs Working Group to consider the Xanthopoulos v Rakshina Judgment

c) PD12F

- 19.4** The Committee were asked to consider a revision of PD12F in child abduction cases due to it being out of date and needing modernising. The Committee were also asked to consider including this item on the Priorities List. The Committee suggested that this issue would be best handled by a specialist group.

ACTION POINT 26: MoJ Policy to set up group to consider amendments to PD12F

DATE OF NEXT MEETING

- 20.1** The next meeting will be held on Monday 13 June 2022. This will be a hybrid meeting so will be undertaken in person at QBIM, Queens Building, Royal Courts of Justice and remotely by MS Teams.

Simon Qasim – Secretariat

May 2022

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