



# 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 13 June 2022**

### **Present:**

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

### **Guests:**

<b>Mrs Justice Knowles</b>	High Court Judge
<b>Mr Justice Peel</b>	High Court Judge

## **ANNOUNCEMENTS AND APOLOGIES**

- 1.1 Apologies were received from His Honour Judge Godwin, Fiona James and Tony McGovern.

## **MINUTES OF THE LAST MEETING: MAY 2022**

- 2.1 The Committee agreed that the minutes of the May 2022 meeting were an accurate record.

**June 2022 Minutes** – Family Procedure Rule Committee 13 June 2022

## ACTIONS LOG

- 3.1 MoJ Policy reported that 25 action points were raised at the May 2022 meeting and that all will be covered during the course of the meeting.

## MATTERS ARISING

### Enforcement Working Group update

- 4.1 MoJ Policy advised that the Enforcement Working Group had discussed at their most recent meeting the proposal for the development of a year-long pilot to test the introduction of a standard directions order being sent by the court to the respondent when a general enforcement application is made. The order would require the respondent to file and serve specified financial information prior to the first hearing on the application. Mr Justice Peel, the Chair of the Working Group, reported the Group's recommendation that a pilot was not considered necessary owing to the low number of enforcement applications and the strong support for the use of a standard directions order in a previous consultation. There is also a lack of resource to record data.
- 4.2 The Committee agreed with the recommendation of the Working Group to proceed without a pilot scheme. Draft amendments to the Family Procedure Rules 2010 and/or Practice Directions will be brought back to the full Committee in autumn 2022.

**ACTION POINT 1: MoJ Policy to bring a paper on the proposed new standard order to provide information on a general enforcement application to the Committee's October 2022 meeting.**

### Web Inaccuracies

- 4.3 MoJ Policy confirmed that no further amendments have been made to the Gov.UK website since the last update in May 2022.

### H v Adoption Agency Working Group

- 4.4 MoJ Policy reported that the Adoption Working Group met for a second time in May 2022 to agree an initial programme of work. A further Working Group meeting has been scheduled for July 2022 and an update on the Group's work will be provided in autumn 2022.

**ACTION POINT 2: MoJ Policy to bring an update on the work of the H v An Adoption Agency Sub-Group to the October 2022 meeting.**

### Possible Limits on Legal Fees

- 4.5 MoJ Policy advised that the Costs Working Group met on 9 June 2022 to agree its Terms of Reference and next steps. The Group's intention is to provide the Committee with a paper in the autumn. The Working Group was of the view that it needed some additional members. The Committee agreed that MoJ Policy would liaise with the President's office in this regard.

**ACTION POINT 3: MoJ Policy to bring a paper on the work of the Costs Working Group to the October meeting**

**ACTION POINT 4: MoJ Policy to liaise with the President's office in respect of inviting new members to the Costs Working Group.**

### **Opposite Sex Civil Partnerships Implementation**

- 4.6** MoJ Policy reported that colleagues at the Cabinet Office have indicated they are working towards laying the relevant SI, to include consequential amendments to the Family Procedure Rules 2010, before the Summer Recess.

### **Case Management and Intimate Images**

- 4.7** MoJ Policy reported that they would bring a paper, to support a substantive item on this issue, to the October 2022 meeting and would add the issue to the Committee's Priorities Table.
- 4.8** The Committee agreed with this timetable and proposed that rather than putting specific procedures in place the issue could be better handled by amending relevant Practice Directions to draw Judges' attention to the matter.

**ACTION POINT 5: MoJ Policy and Legal to bring a paper covering the initial next steps and a timeline to the October 2022 meeting.**

### **Forms E and E2**

- 4.9** On the proposal to that Form E (not Form E2 as currently) should be completed to support a variation application to capitalise a periodical payments order, MoJ Policy stated they would put proposed draft amendments on Forms E and E2 to the Forms Working Group and once that Group is content with the amendments MoJ Policy will revert to the Committee with the agreed form amendments and associated draft amendments to PD5A.

**ACTION POINT 6: MoJ Policy to add Forms E/E2 to the work schedule for the Forms Working Group.**

### **Practice Direction Update No. 4 of 2022**

- 4.10** MoJ Policy confirmed that the fourth Practice Direction Update of 2022 has been made.
- 4.11** The Committee discussed the need to ensure stakeholders were aware of the changes and agreed that a reference to the Update could be included in the President of the Family Division's ('The President') next 'View from the President's Chambers'.

**ACTION POINT 7: The President to consider noting the s.91(14) Orders changes in his next 'View from the President's Chambers' correspondence.**

### **Private Law Demand Reduction Work**

- 4.12** MoJ Policy provided the Committee with an update on demand reduction work and proposed to return to the Committee's July 2022 meeting with further detail on the proposed rule changes to support this work. The Committee agreed with this approach.
- 4.13** The Committee welcomed the interest being shown by the Deputy Prime Minister and asked that the July 2022 paper cover points such as how the proposed changes will impact those who had no access to legal representation; whether consideration of a change in personal circumstances will be built in; and the specificity of the proposed changes.

**ACTION POINT 8: MoJ Policy and Legal to bring a paper on the Private Law Demand Reduction work to the July 2022 meeting.**

### **Fast Track Procedure**

- 4.14** MoJ Policy stated that resourcing issues within MoJ Policy and Legal meant that it had not been possible to bring a substantive update on this issue to the June 2022 meeting and instead an item would be scheduled for the July 2022 meeting.

**ACTION POINT 9: MoJ Policy to bring a paper on the Fast-Track Procedure work to the July 2022 meeting.**

### **PRIORITIES TABLE AND PD UPDATES**

- 5.1** MoJ Policy updated the Committee on where a number of new issues have been added to the table.
- 5.2** The Committee recognised the growing list of priorities and suggested that the Priorities Table be appended to the minutes for reference. The Committee also asked that the item in relation to the Costs Working Group be amended to ensure it was up to date.

**ACTION POINT 10: Relevant July 2022 item to include consideration of whether a version of the Committee's Priorities Table should be attached to the minutes.**

**ACTION POINT 11: The Secretariat to make the updates suggested by the Committee to the Priorities Table.**

### **STANDING ITEMS**

#### **DOMESTIC ABUSE ACT IMPLEMENTATION**

##### **a) Cross-Examination**

- 6.1** MoJ Policy updated the Committee on the progress towards implementation of cross examination provisions. The Committee asked for further detail around the geographical spread of Qualified Legal Representatives and asked whether checks and balances have been considered to ensure the training being offered was effective.
- 6.2** The Committee suggested that those who have undertaken the training in the criminal sphere undertake family work if ticketed and on completion of a short conversion course; and whether regular advocates could be put forward as a means to increase numbers. MoJ Policy agreed to consider both of these points.
- 6.3** MoJ Policy confirmed they were working towards agreeing the precise commencement date.

- 6.4 MoJ Policy noted the Committee's proposed changes to the draft of new Practice Direction 3AB and agreed to circulate an updated version to members before sending it to the President for signing.
- 6.5 The Committee also asked for further detail around the process of appointing a QLR. HMCTS reported that staff guidance and job cards have been drafted while consideration will then be given to providing training.
- 6.6 MoJ Policy asked the Committee to approve the associated forms submitted. The Committee were content with the forms as they were currently drafted.

**ACTION POINT 12: MoJ Legal to make relevant updates to PD 3AB and for the draft to be circulated to the Committee for their feedback prior to it going to the President.**

**ACTION POINT 13: MoJ Policy to share commencement regulations with the Committee once they have been finalised.**

## **SUBSTANTIVE ITEMS**

### **INDEPENDENT DOMESTIC VIOLENCE ADVISORS AND INDEPENDENT SEXUAL VIOLENCE ADVISORS**

- 7.1 MoJ Policy provided an overview on current Government priorities to improve support for victims and consider the position of Independent Domestic Violence Advisors (IDVAs) and Independent Sexual Violence Advisors (ISVAs) in family proceedings. The Committee noted that at the moment existing Guidance on McKenzie Friends applies to IDVAs and asked whether that would continue to be the case.
- 7.2 The Committee suggested that FPR r12.14(2), which deals with who may attend hearings, could be amended to allow for the "automatic" attendance of IDVAs and ISVAs, or that provision could be made in Practice Directions 12A and 12B.
- 7.3 MoJ Policy and MoJ Legal reported they would progress this through the Domestic Abuse Working Group and revert to the Committee with draft Rule amendments and/or draft Practice Directions to allow IDVAs and ISVAs to accompany the party in family court hearings in the autumn.

**ACTION POINT 14: MoJ Policy to progress work through the DA Working Group and a prepare paper on involving IDVAs and ISVAs in proceedings for a later meeting in the autumn.**

## **HARM PANEL IMPLEMENTATION UPDATE**

- 8.1 MoJ Policy provided the Committee with a brief update on delivery against a number of commitments made in response to the Harm Panel report as outlined in the Implementation plan.
- 8.2 The Committee asked about the 'one family one judge' model and MoJ confirmed analysts had undertaken a data matching exercise to inform feasibility.
- 8.3 The Committee also requested an update on the commitments around Voice of the Child and MoJ policy updated that the Private Law Advisory Group were taking forward work on the Voice of the Child, in addition to the reforms being tested by the pathfinder pilots.

- 8.4 MoJ policy informed the Committee of the intention, subject to ministerial clearance and a grid slot, to publish a full update on progress against the Implementation Plan. This update will likely be published on Gov.uk.
- 8.5 The Committee requested a further update on Harm Panel implementation in the autumn.

**ACTION POINT 15: MoJ Policy to bring a further Harm Panel Implementation Update to the October 2022 meeting.**

## **INFORMATION SHARING – IMMIGRATION PROCEEDINGS**

- 9.1 MoJ Policy introduced the issue and the Home Office officials attended for this item, who spoke to the rationale behind their wish to have sight of orders made in family proceedings when they are determining immigration applications, or an Immigration Tribunal is doing so.
- 9.2 The Committee discussed how section 12(2) Administration of Justice Act 1960 already means that orders can be published to those outside of the family proceedings without this amounting to a contempt of court. If there were a wish to provide for other information (beyond orders) to be disclosed by parties to the Home Office/ Tribunals without being a potential contempt of court, then the Committee discussed how this might be achieved via amendments to PD12G. The Committee also discussed the possibility of amending PD12G to provide that it would not be a contempt of court for information to be disclosed from family proceedings to Coroners' Courts or to Domestic Homicide Reviews.

**ACTION POINT 16: MoJ Policy and Legal to consider the proposal to amend PD12G and bring a further paper to the July 2022 meeting.**

**ACTION POINT 17: Secretariat to confirm Committee view to the Home Office in writing and clarify whether the disclosure of an Order would be sufficient to meet their needs**

## **TRANSPARENCY**

- 10.1 MoJ Policy provided an update on the progress on establishing the Media Reporting Pilots (MRPs). At present the proposal is to deliver the MRPs using a Transparency Order template, supported by guidance and user-friendly guides but without pilot Practice Direction provision. This would be on the basis that nothing in the MRPs involves the court/ court users doing something which is contrary to or beyond anything currently set out in the Family Procedure Rules or Practice Directions. The Committee, including the President, welcomed this approach. Given the work still to be done on this project, the initial timeline of MRPs going live this July will need to shift to the right.
- 10.2 Members asked for Practice Direction 12I to be updated to reference the Press Association's Media Injunctions Alert Service were reflected.

**ACTION POINT 18: MoJ Policy and Legal to provide a verbal update at the next FPRC meeting regarding progress on the Media Reporting Pilots.**

**ACTION POINT 19: MoJ Policy and Legal to include PD12I changes relating to Press Association email address in an appropriate PD Update.**

## **PERMISSION TO APPEAL**

- 11.1** MoJ Policy spoke to the issue as to whether to amend the categories of judge who may dismiss an application for permission to appeal on the papers as being totally without merit, and order that the application may not be renewed at a hearing. The Committee were asked to consider how they would like to consult on the issue.
- 11.2** The Committee said that they favoured a limited four-week consultation. The Committee proposed that the consultation be launched following the July 2022 meeting with responses to be reported to the October 2022 meeting. They suggested that the views of Resolution and the FLBA would be particularly useful to hear, as would those of the Designated Family Judges and Financial Remedy Judges.

**ACTION POINT 20: MoJ Policy and Legal to bring a draft consultation paper to the July 2022 meeting.**

## **FAMILY PROCEDURE (AMENDMENT No. 2) RULES 2022**

- 12.1** MoJ Policy said that the next SI amending the Family Procedure Rules 2010 is scheduled to be laid in early July 2022 and gave an overview of the options for obtaining the Committee's signatures ahead of it being laid.

## **POLICE DISCLOSURE ORDERS**

- 13.1** The Committee considered proposed changes to Practice Directions 12J, 36Z and 12B (Pilot), as well as the draft consultation paper. The Committee agreed that a draft standard order should accompany the consultation.
- 13.2** The Committee asked that the Family-Criminal Interface Group and the Association of Police Commissioners are made aware of the consultation in advance.

**ACTION POINT 21: MoJ Policy to include the National Police Chief's Council (NPCC) in the consultation**

**ACTION POINT 22: Secretariat to make the Family-Criminal Interface Group aware of the consultation**

**ACTION POINT 23: The Secretariat to issue the Consultation in July 2022 and make the Committee aware of the feedback at the October 2022 meeting.**

## **FGM AND FM PROTECTION ORDERS MAILBOX FPR CHANGES**

- 14.1** MoJ Policy and Legal updated the Committee on the NPCC's progress on funding for the permanent scheme for automated forwarding of emails containing FGMPO or FMPO to the appropriate local police force, as well as the proposed provision in the FPR and the Practice Directions to put in place provision for the court/ applicants to email such orders to a centralised police email address. The Committee agreed with the proposals.
- 14.2** The Committee asked for clarification that the 'cjsm account' referred to at paragraph 2.2 in draft PD11A is still a relevant or whether the cjsm network is no longer used.

**ACTION POINT 24: MoJ Policy to make the Family-Criminal Interface Group aware of the changes.**

**ACTION POINT 25: MoJ to check with HMCTS if references to "cjsm" network email addresses cited in draft PD11A are still accurate.**

**ACTION POINT 26: MoJ Legal to finalise PD11A once the NPCC confirm the funding for the system is in place**

**ACTION POINT 27: MoJ Legal to include the relevant FPR amendments in the Family Procedure (Amendment No.2) Rules 2022**

## **FORWARD PLANNING AND UPCOMING MEETINGS**

### **OTHER PROCEDURE RULE COMMITTEES AND FAMILY PROCEDURE RULE COMMITTEE LINK**

- 15.1** No specific points of interest for the Committee were raised by the Secretariat following their conversations with the other procedure rule committee secretariats.

### **FORMS WORKING GROUP UPDATE**

- 16.1** MoJ Policy reported that the next meeting of the Forms Working Group has been provisionally set towards the end of June.

### **FPRC WORKING GROUPS**

- 17.1** MoJ Policy confirmed that no further changes to the table had been made since the update provided in May. The Committee requested that the membership of Voice of the Child Working Group be updated to reflect that Mrs Justice Knowles is a member. The Committee also asked that the paper be amended to reflect HHJ Williams's correct title.

**ACTION POINT 28: The Secretariat to make the updates to Working Group membership based on the Committee's feedback.**

### **DRAFT JULY 2022 AGENDA**

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

### **ANY OTHER BUSINESS**

#### **a) President's Conference**

- 19.1** The President of the Family Division provided the Committee with an update from his recent conference.

#### **b) FPRC Recruitment**

- 19.2** The Chair updated the Committee how the recruitment process for the DJ member vacancy was progressing and asked that HHJ Williams attend the July recruitment process was still ongoing. HHJ Williams agreed.

#### **c) Future Meetings**

- 19.3** The Committee discussed whether the future meetings should be extended to accommodate the heavy work schedule.



**ACTION POINT 29: The Secretariat to bring scoping paper on the length of meetings to the July 2022 meeting.**

#### **DATE OF NEXT MEETING**

- 20.1** The next meeting will be held on Monday 11 July 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  
June 2022  
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