



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 11 July 2022**

Present:

Sir Andrew McFarlane	President of the Family Division
Lord Justice Baker	Court of Appeal Judge – Acting Chair
Mr Justice Mostyn	High Court Judge
Her Honour Judge Raeside	Circuit Judge
His Honour Judge Godwin	Circuit Judge
Her Honour Judge Williams	Representing District Judge
Michael Seath	Justices' Clerk
Fiona James	Lay Magistrate
Poonam Bhari	Barrister
Rhys Taylor	Barrister
Melanie Carew	Children and Family Court Advisory Support Service
Graeme Fraser	Solicitor

ANNOUNCEMENTS AND APOLOGIES

- 1.1 Apologies were received from Mrs Justice Theis, District Judge Suh, District Judge Branston, Tony McGovern and Bill Turner. Apologies were also received from Mrs Justice Knowles who attends the meeting as an invited guest.

MINUTES OF THE LAST MEETING: JUNE 2022

- 2.1 The Committee asked that Paragraph 8.3 of the June 2022 minutes be amended in relation to the work attributed to the Private Law Advisory Group.
- 2.2 The Committee agreed that subject to this change that the minutes were an accurate record.

ACTIONS LOG

- 3.1 MoJ Policy reported that 29 actions had been recorded at the June 2022 meeting of which 24 were scheduled for discussion in the July 2022 meeting. The remaining 5 action points are detailed for discussion in October 2022.

MATTERS ARISING

Web Inaccuracies

- 4.1 MoJ Policy reported that the numbering of Practice Direction (PD) PD12B was incorrect (it moved from 13A.2 to 13A.4, without 13A.3) - this will be amended on the Justice website. MoJ Legal have concluded that the change did not require a formal PD amendment.

Opposite Sex Civil Partnership Orders

- 4.2 MoJ Policy noted that colleagues at the Cabinet Office had reported that due to various delays and competing work pressures it now seems likely that the measures won't be laid until late 2022, rather than before Summer 2022 as had previously been indicated.

Police Disclosure Orders Consultation

- 4.3 MoJ Policy said that the consultation had been sent out to all those on the most recently agreed stakeholder list on 16 July 2022 and that the closing date for responses has been extended to 17.00 on Wednesday 17 August 2022. Feedback on the consultation will be provided to the Committee at its October 2022 meeting.

FGM and FM Protection Order Mailbox

- 4.4 MoJ Policy confirmed that the previously agreed provision for the Female Genital Mutilation Protection Orders (FGMPO) and Forced Marriage Protection Orders (FMPO) mailbox had been added to the upcoming FPR amending SI. The supporting Practice Direction, which was approved at the June Committee meeting, will be finalised during the summer.

Deed Poll Name Changes

- 4.5 MoJ Policy reported that this issue has been delayed whilst they awaited a response from the Judicial College in relation to the draft training materials. Furthermore, the team dealing with this matter has been unable to devote sufficient time to this issue due to other pressing matters.
- 4.6 The Committee asked that this matter be progressed with the MoJ Policy team for prioritisation to reflect the time that it has been up on the FPRC agenda.

ACTION POINT 1: The Legal Secretary to the President of the Family Division ('The President') and the Secretariat to liaise to expedite contact with the Judicial College.

Service of Orders at refuges

- 4.7 MoJ Policy stated the intention is to bring an introductory paper and timeline on this issue to the Committee's October meeting. However, progress is dependent on a number of factors

including MoJ Policy and MoJ Legal resource and the activity of the Domestic Abuse Working Group.

Membership – Update on the District Judge Recruitment Exercise

- 4.8 MoJ Policy advised that a suitable candidate has been identified following the recent sift exercise and the intention is that following formal approval, the new member will be in post following the Summer Recess. The Committee asked whether future recruitment process could be sped up to mitigate any delays or gaps in membership.

ACTION POINT 2: Secretariat to review the recruitment process and identify where it can be improved.

PRIORITIES TABLE AND PD UPDATES

- 5.1 MoJ Policy updated the Committee on the changes to the table since the previous meeting.
- 5.2 The Committee suggested that consideration should be given to whether a version of the Priorities Table could be published alongside the minutes and agenda for each meeting.

ACTION POINT 3: Secretariat to schedule an item on the Committee's public profile (including consideration of the publication of the Priorities Table) for the October 2022 meeting.

STANDING ITEMS

DOMESTIC ABUSE ACT IMPLEMENTATION

Cross-Examination

- 6.1 MoJ Legal provided an update on commencement of the cross-examination provisions, which are planned to come into force ahead of the Summer Recess. The Committee noted that they had reservations about the tight timeframe but accepted the proposed approach.
- 6.2 The Committee made a number of suggested changes to the statutory guidance which they asked to be considered before the guidance was published. The Committee discussed the available figures for the number of trained and registered Qualified Legal Representatives and proposed this data should be made available for each Committee meeting.
- 6.3 MoJ Legal advised that the Domestic Abuse and Forms working groups have considered the form changes necessitated by the new provisions. The Committee proposed additional changes and requested that the forms be circulated to members for further consideration before they go live.

ACTION POINT 4: MoJ Policy to bring number of registered Qualified Legal Advisers to the October 2022 meeting.

ACTION POINT 5: FPRC Barrister member to bring number of trained Qualified Legal Advisers to October 2022 meeting.

ACTION POINT 6: MoJ Legal to email the President to confirm when the statutory guidance will be available.

ACTION POINT 7: MoJ Policy to circulate the forms to the Committee for final consideration ahead of their publication.

PRIVATE LAW DEMAND REDUCTION

- 7.1** MoJ Policy updated the Committee on this workstream. The Committee agreed that a Working Group to consider Family Procedure Rule ('the Rules') and PD provision around MIAMs should be established over the Summer Recess and proposed a number of members and officials. The Committee suggested that the Group reported on its progress at the November 2022 Committee meeting.
- 7.2** The Committee noted that the planned consultation on possible primary legislative changes had not been published due to the wider political situation and asked that the additional time be used to ensure that all the points the document notes as having been referred to the Committee for consideration have been communicated to members.

ACTION POINT 8: MoJ Policy to confirm that all the matters that the draft consultation paper indicate as having been referred to the Committee have been considered by members.

ACTION POINT 9: Committee members to contact the non-Committee members who were proposed to sit on the Working Group.

ACTION POINT 10: The Legal Secretary to the President of the Family Division to collate names for the Working Group.

SUBSTANTIVE ITEMS

ONLINE PROCEDURE RULE COMMITTEE

- 8.1** MoJ Policy updated the Committee on the establishment of the Online Procedure Rule Committee (OPRC). The current aim is to that the OPRC's remit and membership will be confirmed by early 2023.
- 8.2** The Committee agreed that the OPRC should be a standing item in the coming months so that MoJ Policy can provide progress updates.

ACTION POINT 11: Secretariat to schedule the Online Procedure Rule Committee as a standing item from October 2022.

FAST TRACK PROCEDURE

- 9.2** MoJ Policy proposed that the Committee should establish a small dedicated Working Group to consider resource and operational issues arising from the Farquhar Committee's proposals for a fast-track procedure in certain financial remedies cases, to form a view as to whether it is possible to fund and deliver a pilot. The Committee agreed with the proposal and asked that the Working Group be set up over the summer with the aim of its first meeting taking place in the Autumn 2022.

ACTION POINT 12: MoJ Policy to confirm Working Group membership.

INFORMATION SHARING – IMMIGRATION PROCEEDINGS

- 10.1** MoJ Policy updated the Committee on the issue discussed in June 2022. The Committee agreed that section 12(2) of the Administration of Justice Act 1960 provides that it is not a contempt of court to publish orders from proceedings relating to children.
- 10.2** The Committee agreed that work around reviewing PD12G should be added to the Priorities Table for a time when MoJ resource and Committee time is available; and that MoJ Policy should write to the Home Office to inform them of the Committee's conclusions on this matter.

ACTION POINT 13: MoJ Policy to contact the Home Office to make them aware of the Committee's decision that no further action is needed.

ACTION POINT 14: Issue to return as a Matter Arising in the October 2022 meeting.

TRANSPARENCY

- 11.1** MoJ Policy updated the Committee on the work of the Media Reporting Pilots (MRP) sub-group in relation to the MRP Design Plan and the Transparency Order template, as well as the discussions around evaluation, training and guidance for courts.
- 11.2** The Committee agreed that the MRPs could proceed without a pilot PD and agreed that this issue would not need to return as a substantive issue in future meetings, but that updates should be provided as appropriate.

PERMISSION TO APPEAL

- 12.1** MoJ Policy presented a draft of the consultation document for the Committee's approval.
- 12.2** The Committee agreed with the drafting and consultation timeline subject to the deadline for responses being extended to take account of the summer recess/ court vacation.
- 12.3** Members noted that further consideration may need to be given to the question of whether provision should also be made for nominated judges to be able to dismiss permission applications on the papers in children cases, as well as in financial remedy cases. The Committee agreed that this matter should be considered at a slower pace, but that the proposed consultation on financial remedy cases should proceed in the meantime.

ACTION POINT 15: The Committee to detail the points around permission to appeal in children's cases in writing for discussion later in 2022.

ACTION POINT 16: Secretariat to add Committee's latest points to the Priorities Table.

ACTION POINT 17: MoJ Policy to change the consultation end date to 9 September 2022, and to publish the consultation.

PD27A/PFD E-BUNDLE GUIDANCE/FR EFFICIENCY STATEMENT

- 13.1** MoJ Policy introduced the work that MoJ Legal had undertaken to analyse the relevant documents and their conclusion that there are no areas where the publications contradict each other. Due to this and the other pressing priorities on the Committee's list, MoJ Policy recommended that a consolidation exercise should not be considered as an immediate project.

- 13.2** The Committee recorded their appreciation for the work undertaken by MoJ Legal and asked whether a similar document could be published to assist stakeholders on this issue. The President agreed that his office would follow up on this point.

ACTION POINT 18: The President's Office to make the authors of each document aware of the MoJ Legal analysis, with a view to consideration being given to the judiciary producing one composite document.

ACTION POINT 19: Issue to return in November 2022 with an update from the President.

DRAFT PERMANENT PD FOR ONLINE PUBLIC LAW (TO REPLACE PD36M)

- 14.1** HMCTS asked the Committee to consider proposals to make a permanent PD to replace Pilot Practice Direction 36M which is due to expire on 31 October 2022.
- 14.2** The Committee agreed with the proposal and suggested that consideration could be given to adding the case number to the relevant email headers and not just the case itself. HMCTS also reported that user feedback had previously been gathered and this process will continue.

ACTION POINT 20: New permanent PD41D to be submitted to the President and then the Minister for formal sign off in the next PD Update, to replace pilot PD36M.

POTENTIAL AMENDMENTS TO THE PILOT PRACTICE DIRECTION SUPPORTING THE ONLINE SYSTEM FOR POST-PLACEMENT PROCEEDINGS

- 15.1** HMCTS asked the Committee to consider extending the end date of the current pilot PD36ZB to 31 March 2023 and for the expansion of the number of early adopter courts to test the use of the online adoption system by applicants and local authorities/adoption agencies to start, progress and participate in adoption order proceedings in post-placement cases.
- 15.2** HMCTS informed the Committee that this pilot is being kept under regular review. HMCTS offered to provide the Committee with regular feedback where necessary. The Committee agreed with this proposal and with the timetabling presented.

ONLINE SYSTEMS FOR MAKING PRIVATE LAW AND INJUNCTION APPLICATIONS: UPDATE AND NEXT STEPS

- 16.1** HMCTS asked the Committee to consider proposed changes to two pilot Practice Directions making provision for private law applications, PD36G which underpins the HMCTS online system and PD36ZD which underpins the HMCTS Private Family Law digital service. Proposed amendments to PD36ZD will include reflecting that litigants in person will be able to use the Service; and will begin to mandate use of the Service by legal representatives. As and when use of the Service underpinned by PD36ZD is mandated, PD36G will need amending to remove the ability for legal representatives to use that system rather than the Service in the areas/regions applicable.

- 16.2** Given the planned timing for the release of the changes to the online Service, the Committee agreed that the associated PD amendments could be considered out of Committee and then submitted to the President within a future PD update.

ACTION POINT 21: Secretariat to send draft PD amendments to all members a week in advance of them going to the President for his signature.

ACTION POINT 22: Officials to liaise with the President's Office about his availability to sign a PD Update before the beginning of October.

FAMILY PROCEDURE (AMENDMENT NO 2) RULES 2022

- 17.1** MoJ Policy stated that further to the update provided at the June meeting, an updated draft was circulated which includes some minor drafting changes for consideration and sign off. The SI is due to be laid on 18 July 2022 and will come into force on 1 October 2022. Members signed the SI.

PD UPDATE NUMBER 6 of 2022

- 18.1** MoJ Policy and Legal advised that they are currently progressing work to prepare the next Practice Direction Update of 2022 (Update No 6 of 2022). The Committee agreed with the draft document as presented.

COMMITTEE TIMINGS

- 19.1** MoJ Policy provided a summary of how other Rule Committees schedule their meetings and presented four options for how to approach the timing of future Committee meetings.
- 19.2** The Committee agreed with the option to trial a longer meeting from 10.30 to 16.00 twice a year, starting from the October 2022 meeting.

ACTION POINT 23: Secretariat to schedule October 2022 meeting for 10.30 to 16.00 with at least 45-minute lunch break.

FORWARD PLANNING AND UPCOMING MEETINGS

OTHER PROCEDURE RULE COMMITTEES AND FAMILY PROCEDURE RULE COMMITTEE LINK

- 20.1** 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

- 21.1** MoJ Policy advised that work on the proposed changes to Form E and Form E2 has been delayed but would begin shortly. The Secretariat will arrange a meeting of the Forms Working Group to discuss this issue and other topics on the Group's current work list. A further update will be provided for the Committee in October.

FPRC WORKING GROUPS

Draft July 2022 Minutes – Family Procedure Rule Committee 11 July 2022

- 22.1** MoJ Policy advised that those Working Groups proposed and agreed at this meeting will be added to the list and will be presented at the October meeting with the papers.

ACTION POINT 24: Secretariat to add the new working groups to the Working Group document.

ACTION POINT 25: Secretariat to update the membership of the Costs Working Group.

DRAFT OCTOBER 2022 AGENDA

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

ANY OTHER BUSINESS

Membership

- 24.1** The Committee thanked HHJ Williams for her work and commitment to the Committee; and were particularly grateful for her agreement cover the vacant District Judge position whilst that recruitment exercise was in progress.

PD6C

- 24.2** The Committee asked that an update on the position on the proposal to review and revise PD6C, discussed at previous meetings, be added to the agenda for each meeting going forward.

ACTION POINT 26: Secretariat to schedule an item on PD6C for the October 2022 meeting.

DATE OF NEXT MEETING

- 25.1** The next meeting will be held on Monday 10 October 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

July 2022

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