



Ministry of Justice

FAMILY PROCEDURE RULE COMMITTEE

In person at QB1M, Queens Building, Royal Courts of Justice
And remotely via Microsoft Teams
At 11.00 a.m. on Monday 6 March 2023

Present:

Sir Andrew McFarlane	President of the Family Division
Mr Justice Keehan	Acting Chair
Lord Justice Baker	Court of Appeal Judge
Mr Justice Peel	High Court Judge
His Honour Judge Godwin	Judicial member for Wales
Her Honour Judge Suh	Circuit Judge
District Judge Branston	District Judge
District Judge Birk	District Judge
Michael Seath	Justices' Clerk
Fiona James	Lay Magistrate
Poonam Bahri	Barrister
Rhys Taylor	Barrister

Announcements and Apologies

1. Apologies were received from Her Honour Judge Raeside (Circuit Judge), Melanie Carew (Cafcass), Robert Edwards (Cafcass Cymru), Graeme Fraser (Solicitor) and Mrs Justice Knowles (Invited Guest).

Minutes of the previous meeting – 6 February 2023

2. Aside from a few minor amendments the Committee approved the draft minutes as a true record of the February 2023 meeting.

Action Point 1: Secretariat to amend the minutes of the February 2023 meeting as discussed and publish them on the Committee's webpage before the next meeting.

Actions Log

3. The Secretariat reported that 32 actions were recorded from the last meeting.

Matters arising

Web Inaccuracies

4. The Secretariat noted that no further inaccuracies had been identified since February 2023.

Review of the PD10A/PD12K amendments relating to Open Court Announcements

5. HMCTS informed the Committee that there were no concerns raised by the Court regarding amendments to PD10A/PD12K relating to Open Court Announcements.

Permission to Appeal (PTA)

6. MoJ policy informed the Committee that due to resource pressures, this work was paused. The working group that will look at the Appeal process more widely will be set up in April. The Committee were informed that MoJ policy will return to the Committee in May with an update.

Action Point 2: Secretariat to set up the PTA Working Group in April.

Action Point 3: MoJ policy to return to the Committee with an update in May.

Case Management and Intimate Images

7. MoJ Policy informed the Committee that policy work regarding this item has been paused in February and March due to resource pressures. The Committee were informed that this work will resume in April.
8. MoJ Policy stated that they will discuss this item next with the Domestic Abuse (DA) Working Group in April and will have either a substantive or verbal update for the Committee in May.

Action Point 4: MoJ Policy to present this item for consideration at the DA Working Group in April.

Action Point 5: Item to return to the Committee with either a substantive or verbal update from MoJ Policy in May.

Early Resolution: Government Consultation Update

9. MoJ Policy gave the Committee an update of the cross-government write round on the government consultation on early resolution.
10. The President welcomed efforts by MoJ and the political leadership of Lord Bellamy and the Deputy Prime Minister regarding this work. The President highlighted that he is keen for the FPRC consultation to be published as early as possible and hopefully this month.

Action point 6: MoJ policy to work towards publishing the consultation in March.

Priorities Table and PD Updates

11. The Secretariat informed the Committee that due to resource pressures in the team, the policy items led by the Secretariat team would be paused throughout March; work will resume in April. The Secretariat informed the Committee that this will be updated in the Priorities Table and the Secretariat will bring an updated version of the Priorities Table to the April meeting for sign off ahead of publication.
12. Members also informed the Secretariat that the planned further report from the Pensions Advisory Group has been moved to September and this should also be reflected in the Priorities Table.
13. The Committee were informed that the PD Annex has been amended.

Action point 7: Policy items led by the FPRC Secretariat team to resume in April.

Action point 8: Secretariat to update Priorities Table and to return to the Committee in April for sign off ahead of publication.

STANDING ITEMS

Online Procedure Rule Committee (OPRC)

14. MoJ Policy updated the Committee of the Online Procedure Rule Committee. Non-judicial posts recruitment has concluded, and officials are in the process of seeking ministerial decision on appointable candidates.
15. The Committee were informed that the first preparatory meeting was held with the three judicial members of the OPRC in February. MoJ Policy are currently putting together an induction programme for non-judicial members.

Action point 9: Item to return to the Committee in April for an update.

SUBSTANTIVE ITEMS

Rule 12.75 FPR/ EX710 Form

16. MoJ Policy sought the Committee's views on whether a person should be permitted to seek advice on whether they could make a complaint about, for example, an expert in family proceedings, without this amounting to a potential contempt of court. The Committee considered that this should be possible, and that rule 12.75 FPR was clear on this and did not need amending to remove any ambiguity.
17. MoJ agreed to consider with HMCTS how the Guidance leaflet EX710 could be amended to make the position on this point clearer.

Action point 10: MoJ and HMCTS to consider amendments to the EX710 Guidance Form.

Domestic Abuse Protection Orders (DAPOs) Pilot PD

18. MoJ legal stated that they have been working with the DAPO Working Group to develop the draft pilot Practice Direction. It was noted that the paper sets out the provisions for Domestic Abuse Protection Notices and Domestic Abuse Protection Orders (DAPNs and DAPOs). DAPOs are a new protective order created by the Domestic Abuse Act.

19. MoJ legal highlighted that a DAPO will be available in the family court on application by a victim or those with leave of the court to apply, and of the court's own motion or on application by a party within ongoing proceedings which do not have to be domestic abuse related. The Act also enables third parties who are specified in regulations made by the Secretary of State to apply to the family court but these regulations will not be made for the pilot.
20. The intention initially is to pilot the provisions in selected pilot areas and courts for two years.
21. MoJ policy sought the Committee's views on the proposals and Committee's approval to a 8-week consultation.
22. The Chair asked the Committee to provide any comments on the draft PD in writing after MoJ legal talked the Committee through the draft PD.
23. The Committee agreed for the consultation to proceed in principle and agreed for a first draft of the consultation document to be brought to the Committee in April.

Action point 11: MoJ Policy to bring a draft consultation paper to the Committee in April.

Action point 12: Committee members to provide comments on the draft PD in writing.

Fast Track Working Group

24. MoJ Policy gave an update in respect of the work of the FPRC's Fast Track Working Group. MoJ Policy highlighted that the Fast Track Working Group had discussed at its meetings resource and operational considerations, as well as whether proposals for a new fast track proceedings were a good idea 'in principle'.
25. MoJ Policy outlined that HMCTS would need time to explore potential resource requirements for new fast track proposals.
26. Committee members were of the view that there may be flexibility regarding the proposed 26-week timeframe in which a final hearing would be listed after the application is issued. It was agreed that MoJ Policy and HMCTS would have discussions with Mr Justice Peel in this regard.
27. The Committee agreed that MoJ Policy would provide another update in June.

Action point 13: MoJ Policy to return in June with an update.

Independent Domestic Violence Advisers (IDVAs)/ Independent Sexual Violence Advisers (ISVAs)

28. MoJ Policy gave an overview of the draft guidance for IDVAs/ISVAs which will be published alongside the Rule/PD amendments in April.
29. Members queried whether paragraph 12 of the guidance should be made clearer. It was agreed for the word 'final' to be taken out of paragraph 12 and it should instead state that it will be continuing throughout proceedings.

30. It was agreed for paragraph 18 to be moved after Paragraph 5. The Committee approved the guidance subject to the amendments.

Action point 14: MoJ Policy to incorporate the amendments highlighted by the Committee.

Closed Material Proceedings (CMP)

31. MoJ Policy outlined the issue regarding CMP and asked members whether they are content with the draft rules and next steps as outlined in the policy paper. Committee members agreed that they are content with the draft rules.

32. MoJ Policy also informed the Committee that this work will be paused throughout March due to resource constraints in the team. The Committee noted this and agreed for this item to return in May.

Action point 15: MoJ Policy to proceed with the proposal for CMP from April and to return to the Committee in May with an update.

Online Procedures for Placement Proceedings (PD36P) Extension of Pilot Practice Direction

33. Officials outlined that this Pilot PD underpins HMCTS's online system for placement order proceedings and it was noted that this PD is currently stated to apply only to applications made on or before 31 March 2023.

34. MoJ legal highlighted the proposal to extend the Pilot PD to 31 October 2023. The Committee agreed to the proposal.

Action point 16: End date of the Pilot PD to be extended to 31 October 2023. Proposals for next steps in relation to this PD to be discussed at Committee's October meeting.

Online Procedure for Adoption (PD36ZB): Extension Pilot Practice Direction

35. Officials outlined proposals to extend this Pilot PD, which underpins HMCTS's online system for certain adoption order applications, to be extended to 31 October 2023.

36. The Committee agreed to the proposal.

Action point 17: The end date of the Pilot PD to be extended to 31 October 2023.

Online Procedure for Divorce/Dissolution (PD36ZC)

37. MoJ Policy outlined the proposal to extend Pilot PD36ZC to 30 November 2023, which underpins the procedure for the online system to complete certain proceedings for a matrimonial order or civil partnership order online.

38. The President highlighted that he is in favour of this proposal and noted the success of divorce reform implementation.

39. The Committee approved the extension of the Pilot PD to 30 November 2023 and it was agreed for this item to return in October 2023 and then to consider for a second time in November 2023.

Action point 18: PD36ZC to be extended to 30 November 2023.

Action point 19: Item to return to the Committee in October 2023 and November 2023.

Temporary Flexibilities: Replacement Provision for Pilot PD36Y

40. MoJ Policy informed the Committee of a new draft Pilot Practice Direction (PD36ZE) which will continue the flexibilities provided for in PD36Y but with a stated purpose which is not related to the pandemic or recovery from it. MoJ Policy outlined that the new measures will come into force from 1 April 2023.

41. The Committee approved of the Pilot PD proposal.

Action point 20: MoJ to proceed with the PD proposal.

Practice Direction Update No.2 of 2023

42. MoJ Legal informed the Committee of the proposed content in the PD Update No. 2. MoJ Legal flagged to the Committee that they have been made aware of a minor error in PD2C where an entry in the Table in that PD cross-references to provisions in paragraph 6 of PD12J, but this ought to refer to paragraph 5 of PD12J. MoJ Legal proposed to include this minor amendment to PD2C in PD Update No 2. of 2023.

43. MoJ Legal informed the Committee that they plan to submit the final version of the Update to the President and then Minister later in March.

44. The Committee approved of the PD Update proposal.

Action point 21: MoJ to proceed with the proposal for PD Update No.2 of 2023, with a view for it to be signed by the President and then Minister by the end of March.

ADDITIONAL ITEMS

Other Procedure Rule Committees

45. MoJ Policy noted that the Secretariat had liaised with the secretariats of the other rule committees in advance of the meeting, but no issues had been raised.

Forms Update

46. The Secretariat informed the Committee that the forms table has been amended to reflect the actions from the last Working Group meeting on the 19 January 2023. It was also noted that FL415 state of service and FL401 application for a non-molestation or occupation order are currently with the Welsh Translation Unit.

FPRC Working Groups

47. The Secretariat informed the Committee that the Working Group list has been updated to reflect comments received from last month's meeting.

April 2023 Agenda

48. The Secretariat noted that they will update the draft Agenda so that it reflects the discussions that took place in the February 2023 meeting.

Any Other Business

Committee timing

49. The Committee were asked to confirm if they would prefer for the Committee to start at either 10:30 or 11:00. The Committee confirmed that they would prefer for the Committee meetings to start from 11:00 from now onwards.

Action point 22: Committee meetings to start at 11:00 starting with April meeting.

Single Lawyer Model Working Group

50. Mr Justice Peel stated that he has set up a Working Group to consider a proposal on Single Lawyer Model (SLM). He noted the members that have volunteered to join the Working Group.
51. MoJ Policy noted their proposal that the Early Resolution Governance Group (ERGG), under the Family Justice Board, take forward work on SLM, and that MoJ resourcing is focused on the ERGG. Mr Justice Peel proposed that the SLM Working Group bring a paper to the April Committee meeting, after which decisions could be taken on next steps. Mr Justice Peel also agreed to attend the ERGG to discuss a coordinated approach to SLM.
52. Mr Justice Peel noted that this work will not involve Government funding as it will be self-funded.
53. Committee members noted that SLM is not about dispute resolution but a method of providing advice. The President noted that he does not think the SLM would necessarily require a Practice Direction. However, he was supportive for this work to continue and for the issue to be looked into further. The President was also content for his office to offer secretariat support to the Working Group.

Action point 23: Single Lawyer Model Working Group to submit a paper to the April Committee meeting.

Action point 24: FPRC Secretariat to update the FPRC Working Groups table, which is to be reviewed at April meeting.

Date of Next Meeting

54. The next meeting will be held on 3 April 2023, starting at 11am. The meeting will take place in person and remotely via MS Teams.