



Ministry of Justice

**FAMILY PROCEDURE RULE COMMITTEE
In Royal Court of Justice
and remotely via Microsoft Teams
At 11.00 a.m. on Monday 8 July 2024**

Present:

Sir Andrew McFarlane	President of the Family Division
Mr Justice Keehan	High Court Judge
Lord Justice Baker	Court of Appeal Judge
Mr Justice Peel	High Court Judge
His Honour Judge Godwin	Judicial Member for Wales
District Judge Birk	District Judge
Judge Foss	Judge
Poonam Bhari	Barrister
Rhys Taylor	Barrister
Laura Coyle	Solicitor
Graeme Fraser	Solicitor
Jennifer Kingsley JP	Lay Magistrate
Shabana Jaffar	Cafcass Representative
Bill Turner	Lay Member

ANNOUNCEMENTS AND APOLOGIES

- 1.1 Apologies were received from Mrs Justice Knowles, Her Honour Judge Suh, District Judge Foss, District Judge Nelson and Rob Edwards.
- 1.2 The Chair expressed his thanks to His Honour Judge Godwin on his final Committee meeting and thanked him for his outstanding service as a Committee member over the last eight years.

MINUTES OF THE LAST MEETING: June 2024

- 2.1 The Committee approved the minutes for the June 2024 meeting.

July 2024 Minutes – Family Procedure Rule Committee

Action Point 1: Secretariat to arrange for the June 2024 minutes to be published on the FPRC webpages.

ACTIONS LOG

- 3.1 The Secretariat informed the Committee that 21 actions were recorded from the June 2024 meeting.

MATTERS ARISING

- 4.1 MoJ Policy had tabled a paper which contained updates on the following:
- Web Inaccuracies.
 - Cape v Dring.
 - Jade's Law.
 - Plans for the Family Procedure (Amendment) Rules 2024.
 - Unregulated Experts.
 - Rule 29.1 Amendment.
- 4.2 The Chair summarised the matters arising as outlined in the paper.
- 4.3 The Committee were informed that the Secretariat continue to resolve various web issues.
- 4.4 The Committee were provided with an update on Cape v Dring. At the June meeting the Committee were informed that the Civil Procedure Rule Committee (CPRC) was finalising a report based on consultation responses on draft amendments to the Civil Procedure Rules in relation to access to court documents by non-parties. Following the June meeting, the CPRC informed the Secretariat that the report has not yet been drafted as the work is currently paused. This is for various reasons including the scale of the response which requires further consideration and to allow the Lady Chief Justice's new Transparency Board to complete its first phase of work. The Secretariat will continue to liaise with the CPRC and will share the report with the Committee when available.
- 4.5 The Committee were provided with an update on Jade's Law. The Victims and Prisoners Act 2024 ('VAP Act') received Royal Assent on 24 May 2024. MoJ Policy will focus now on the implementation of section 18 of the VAP Act including the development of a cross jurisdictional notification system to reflect the process brought about by Jade's Law. Following wider discussions with relevant stakeholders, MoJ held an implementation workshop on 13 June 2024 to discuss appropriate procedures and processes to implement the Jade's Law provision. MoJ will continue to engage with the Domestic Abuse Working Group to discuss any consequential work on the Family Procedure Rules and/or Practice Directions and any recommendations from the Working Group will be brought to the Committee for consideration at an appropriate point.
- 4.6 An update was provided on the plans for the Family Procedure (Amendment) Rules 2024. The Committee were informed that MoJ Policy are bidding for a new date to lay the statutory instrument (SI) and the Committee will be informed of the new date once it has been confirmed.
- 4.7 Following the views expressed by the Committee on unregulated experts at its June 2024 meeting, MoJ Policy has been developing options for the Rule change that would allow for judicial discretion. It was agreed that any Rule change will make clear that instructing a

regulated expert should be the starting point in all children proceedings. MoJ will further engage with the Domestic Abuse Working Group at their meeting on 18 July to ensure that the appropriate procedures, for example how to approach situations where no regulated experts are available, are incorporated within the Rule change. MoJ intends to bring any recommended Rule Changes to the Committee for consideration after the summer and develop the necessary supporting materials for a consultation on the changes.

4.8 At the meeting in May 2024, the Committee approved an amendment to Family Procedure Rule 29.1 which would allow one party to indicate that another party's contact details should be treated as confidential to the court. MoJ Policy stated that whilst the amendments could be reflected in the paper forms it has become apparent that it would not be possible to implement these in the digital version of private law and Family Law Act forms this year. HMCTS therefore proposed that the amendment be reconsidered following national roll out of the digital service which is anticipated to be in Spring 2025. MoJ confirmed that it will revert to the Committee with a revised timeline for making the rule 29.1 FPR amendments when the operational timing is clear.

4.9 The Committee were content with the matters arising as outlined in the paper and no further observations were made.

Action Point 2: Cape v Dring: Secretariat to return to the Committee at a later date and share report provided by CPRC when available.

Action Point 3: Jade's Law: item to return to the Committee as a Matter Arising in October.

Action Point 4: Plans for the Family Procedure (Amendment) Rules 2024: Secretariat to inform members of new date for laying the SI before Parliament once confirmed.

Action Point 5: Unregulated Experts: item to return to the Committee with a substantive update in October.

Action Point 6: Rule 29.1 Amendments: MoJ to include Rule amendments in a future set of FPR amending Rules and return to the Committee with a revised timeline at a later date.

STANDING ITEMS

Priorities Table and Pending PD Amendments.

5.1 MoJ Policy stated that the Priorities Table had been updated since the last meeting. The Committee approved the paper and were content for its contents to be published.

SUBSTANTIVE ITEMS

PD36ZF: pilot for expert and readiness checklists

6.1 A brief verbal update was provided to the Committee on the PD36ZF: expert and readiness checklists pilot.

- 6.2 MoJ Policy informed the Committee of the feedback received to date stating that as there was a total relaunch in two courts and a partial relaunch in another there is not enough substantive qualitative data to compile an interim report at this stage on the pilot.
- 6.3 MoJ will return to the Committee in November 2024 to discuss a possible extension of the pilot and to discuss the possibility of enabling permanent PD amendments once MoJ have a full evaluation.

Action Point 7: item on PD36ZF: pilot for expert and readiness checklists to return to the Committee in November.

Online Procedure Rule Committee (OPRC)

- 7.1 Following the update given at the Committee's June meeting, MoJ Policy provided a brief verbal update on the launch of the OPRC sub-committees. MoJ stated that they will be putting advice to Ministers in the next few months. The team intend to bring the family jurisdiction into OPRC and plan to draft the Statutory Instrument broadly rather than noting the specifics in regards to financial remedies. It was noted that OPRC have started planning 4 subcommittees, however, are considering to have 2 instead. There will be opportunities for the Committee to get involved in the work due to the overlap with family.

Action Point 8: item on OPRC to return to the Committee with a substantial update in October.

PD27A – e-bundles

- 8.1 Practice Direction 27A ('PD27A') sets out the process to be followed for preparing bundles in family proceedings. The Committee raised concern in February 2023 that the PD was out of date as it was last updated in 2018 and does not make detailed reference to electronic bundles.
- 8.2 A Working Group ('WG') consisting of MoJ Legal, MoJ Policy, Rhys Taylor, Graeme Fraser and Dan Mutton was established to consider the issue. Following the WG meeting on 19 June and after having sought views from a range of colleagues including Mr Justice MacDonald, Mr Justice Peel and Her Honour Judge Suh, MoJ drafted a proposed new PD27A which was presented to the Committee at the meeting.
- 8.2 MoJ explained the key points and questions for consideration in the new draft PD27A and noted the Committee's comments together with other amendments that had been suggested.
- 8.3 MoJ invited the Committee to indicate whether it wished to undertake a consultation, and if so, whether it should be a wider public consultation or targeted to specific stakeholders. The Committee were keen to make progress on the matter and agreed that the new PD27A needs to work for everybody. It, therefore, agreed to undertake a consultation and favoured a wider public consultation rather than one limited to specific stakeholders or the professions.
- 8.4 Committee members emphasised the importance of consulting HMCTS as it would be responsible for delivery of PD27A, and litigants in person who may have capacity to prepare bundles without the aid of a legal representative or assistance from the court. HMCTS agreed that it would be helpful to work together with the Committee on this to clarify the

minimum requirements expected of them, particularly for example when preparing bundles containing confidential information.

- 8.4** In relation to the discussion on which pagination system is to be used in various proceedings, MoJ explained that the WG agreed that financial remedy cases should use continuous numbering and that the Bates numbering system should be used for other proceedings. However, upon hearing the differing opinions around this issue from practitioners, the Committee noted that it would also be useful to encourage consultees to give their views on which pagination options they would favour in different types of proceedings.
- 8.5** Members also raised concerns about the common practice of filing large volumes of general correspondence between legal representatives, which could lead to exceeding page restrictions, and should therefore be generally discouraged. The Committee gave steers on various points of detail raised in the draft PD.
- 8.6** It was also agreed that MoJ should make clear in the consultation paper that the primary purpose of the bundle is to support the court in resolving the issues and should encourage consultees to give their views on what should be included in the bundle as well as means of filing an e-bundle.
- 8.7** Committee members also suggested the inclusion of a provision for parties to provide advance notice to the court where a Welsh translation of the bundle was required.

Action Point 9: MoJ to draft a consultation paper setting out the questions the Committee agreed should be in the consultation. MoJ to share a draft consultation paper and revised draft PD with members by e-mail to agree out of Committee or otherwise return to the Committee at the October meeting for further discussions.

Transparency: Media Reporting Pilot

- 9.1** MoJ, in collaboration with Mrs Justice Lieven and Jack Harrison of Coram Chambers, presented a paper to the Committee setting out proposals to roll out the media reporting transparency order pilot scheme across England and Wales in early 2025.
- 9.2** Mrs Justice Lieven confirmed that the pilot relates to children proceedings and not financial remedies proceedings and strongly endorsed the pilot, noting that the pilot and guidance were working well.
- 9.3** The Committee's Cafcass member noted that feedback from Cafcass focus groups in the pilot areas, which included feedback on the training that was provided, was very positive.
- 9.4** The Committee welcomed the positive feedback and were pleased that the pilot was working well. The Committee were content to approve the paper, which included a proposed new "enabling" rule to be included in the FPR 2010, with a view to the detail of the rolled out procedure being included in a new Practice Direction.
- 9.5** MoJ plan to return to the Committee at the October or November meeting with final drafts of the proposed FPR and PD provisions for approval.

Action Point 10: MoJ to return to the Committee in October with a first draft of a proposed new PD.

FORWARD PLANNING AND UPCOMING MEETINGS

Other Procedure Rule Committees

- 10.1** The Secretariat informed the Committee that they had spoken with other Secretariats from other Rule Committees and there was nothing relevant to update the Committee at this stage.

Forms Working Group Update

- 11.1** The Secretariat informed the Committee that the Forms Working Group last met in March and that the next meeting will be confirmed in due course.

FPRC Working Groups

- 12.1** The Secretariat stated that the FPRC Working Group table will be further updated following this meeting.

Draft October 2024 Agenda

- 13.1** The Secretariat informed the Committee that the next meeting on 7 October had been scheduled for a full day, however this may be subject to change. Timings would, therefore, be confirmed in due course.

ANY OTHER BUSINESS

- 14.1** The Committee's barrister member spoke about the new Suspected Inflicted Head Injury Service (SIHIS) pilot scheme and raised some concerns around the pilot. The Committee were informed that as this was a pilot intended to test out a new clinical approach it would be subject to an evaluation process in due course. It was also confirmed that the Family Justice Council Experts Committee (FJCEC) are due to meet on 16 October 2024 which will include an update on SIHIS.

DATE OF NEXT MEETING: 7 October 2024

- 15.1** The next meeting will be held on Monday 7 October 2024 and will be a hybrid meeting. The meeting will be hybrid and take place both in QB1M Royal Courts of Justice and remotely via MS Teams.

FPRC Secretariat

July 2024

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