

TRANSPARENCY IN THE COURT OF PROTECTION

PILOT BACKGROUND NOTE

The Court of Protection Rule Committee has formulated a practice direction for the operation of a pilot scheme which will test both the risks and benefits of relaxing the rules governing media and public attendance at hearings in the Court of Protection (CoP). Currently, the vast majority of hearings in the CoP are conducted in private, with only those directly involved in the case attending.

The orders made under Rule 92 in accordance with the pilot will during its operation effectively change the default position to one where hearings are held in public, thereby allowing members of the media or public to attend, unless there is a court order prohibiting this (which would reflect the present position for serious medical treatment cases, which are an exception to the general rule of private hearings). The scheme will involve the court making, as standard (but with the possibility of making a different order if that is appropriate in a particular case), an order allowing for a public hearing but imposing restrictions on identifying in any report or other publication the person who is the subject of proceedings (known as 'P').

The text of the standard order and the pilot practice direction accompany this note.

Policy officials will also work with Her Majesty's Courts and Tribunals Service to amend the way in which court lists are displayed, so that they provide a short descriptor of what the case is about, allowing the media to make an informed decision on whether to attend the hearing (the intention is that a list of suitable descriptors will be made available on the HMCTS website to accompany the pilot practice direction).

It is proposed that the pilot should run in all regions of England and Wales, from January 2016 and for at least six months (with the possibility of extension) to allow for the changes to be fully tested. Ministry of Justice Analytical Services will contribute in an advisory role on appropriate approaches to seeking feedback on the impact of the changes. We will seek to understand how the pilot has been implemented and how it has worked in practice, including exploring issues such as accommodating press and the public in courtrooms, and any publication or unwanted disruption attributed to the changes.