

Family Division & Court of Protection Transparency Review – response from the Press Association

Introduction

The Press Association's High Court team consists of four reporters (Law Service Editor Sian Harrison, Sam Tobin, Brian Farmer and Alison Kershaw). The team is based at the High Court and routinely covers hearings across all divisions. As dedicated court reporters with experience of covering Family Court and Court of Protection hearings, we welcome the opportunity to raise a few points in response to the call for evidence for the Transparency Review. We note these matters simply to assist with the review and they are not intended as any criticism of judges or court staff, who are always most helpful when dealing with the team. We have also provided feedback to the Media Lawyers' Association, and endorse the matters they have raised.

Judgments

Where judgments are listed for hand down, they are often not available at the time of hand down. They are either not handed down at all, or are handed down to the parties involved but not the press and public because further redactions or anonymisation is required. It is also fairly commonplace for judgments to appear without notice on Bailii, some time after they are listed for hand down. Reporters often attend a listed hand down, only to be told there is no judgment ready at that time. This issue does not tend to arise in public appeals. One way we see of improving transparency in this respect is if judgments could be finalised in a format which can be made public before they are listed for formal hand down, so that they can be reported on as soon as they are available. It would also be most helpful if any judgments sent to Bailii for publication could also be sent to the High Court email address (highcourt@pa.media) at the same time – while we check Bailii fairly regularly, on a busy day we are liable to miss a judgment or not see it until several hours after it has been published. We would also like to express our thanks to the President for the consideration shown to the press in the case of *Re Al M*, when ruling on a dispute between Sheikh Zayed bin Mohammed bin Rashid Al Maktoum and Her Royal Highness Princess Haya bint Al Hussein. The four-hour embargo directed in this case gave reporters time with three judgments following many complex and lengthy hearings, allowing the issues to be properly read and digested before articles were published. The clear benefit of an embargo, where one is possible, is that it assists greatly with accurate and balanced reporting. Our positive experience of this case also demonstrates how dialogue between the press, parties, and the judge hearing a case as to how best to proceed with the publication judgments is to the benefit of all concerned.

Listings

At present, the court lists provide very little information as to what a hearing is about. We keep a running list of case numbers of cases we either know about, or have reported on previously, which we check against the daily court lists. We also generally check any open court hearings, which are indicated on the list, and are able from the numbers to work out roughly what type of case is being heard. However, this is rather specialist knowledge gathered over time and in light of our unique position covering the Law Courts, and most other members of the press and the public do not possess this. It would be of great assistance if listings could refer in some way to the type of case being dealt with, obviously without any impact on confidentiality. Some judges contact us via their

clerks to let us know they are dealing with cases which may be of public interest or importance, and we are most grateful for that when it occurs. Again, if any cases of potential interest which are routinely flagged up in this way could be drawn to our attention via the High Court email address, that would assist us greatly with the decisions we have to make in terms of planning and resources. We would ask that, in the event further discussions are to be had in terms of more information being listed, we are kept abreast of developments so that we can offer our views at that stage.

Remote hearings

From its pioneering efforts with the first Skype hearing, conducted by Mostyn J, to the guidance by MacDonald J on remote access, the Family Division of the High Court has taken the views of the PA High Court team into account and used them, in part, to inform its approach to open justice during this time. We note MacDonald J's observations in 'The Remote Access Family Court', that "there is a need to consider all journalists including but not limited to the Press Association [as well as] legal bloggers". We are grateful for the consideration given to journalists wishing to access hearings and continue to cover hearings using the range of options provided. As mentioned previously, one thing that would help further would be if we could be alerted to any forthcoming hearings which we may wish to cover by an email to highcourt@pa.media