



PRESIDENT OF THE
FAMILY DIVISION

Transparency Implementation Group

Subgroup 2: Publication of judgments

Minutes of meeting on 7 March 2022 at 4.30pm

(Remote meeting via Microsoft Teams)

Attendees: HHJ Madeleine Reardon [MR] (Chair of Subgroup), Fatima Ali [FA], Dr Natalie Byrom [NB], Dr Julie Doughty [JD], Tom Foley [TF], Maria Gittens [MG], Charles Hale QC [CH], Adam Lennon [AL], Helen Lincoln [HL], Femi Ogunlende [FO], DJ Adem Muzaffer [AM], Lucy Reed [LR], Tracy Seng [TS], Clare Walsh [CW], Angela Fraser [Minutes]

ACTIONS:

Serial	Action	On/By	Status
01/01	MR to update minutes 26Jan22, then arrange for these to be re-circulated as final, approved version	MR/AF By next meeting	Complete
01/02	JD/LR to circulate material currently available setting out the views of young people and material from the transparency review project to refresh ourselves.	JD/LR By next meeting	

Item 1 - Apologies

- MR introduced the meeting and noted the following apologies:
 - Jack Harrison (Secretary)
 - Maxine Monks
 - Jack Cordery
 - The FJYPB
- MR advised the meeting is being recorded, so minutes can be more easily compiled. The recording will then be destroyed.

Item 2 - Minutes of meeting on 26.1.2

- MR confirmed minor corrections from Julie and Adam. MR to update, then arrange for minutes to be re-circulated as the final, approved version. **Action MR/AF 01/01**

Item 3 - Updates since last meeting

4. MR noted the main implementation group are meeting this week and thought it useful to focus on points where there is a crossover with the work of this group.

Transfer of judgments from Bailli to TNA

5. MR informed the transfer of judgments from Baillie onto the National Archives [TNA] is due to go live in the middle of April. TNA are happy to host all Family judgments, there are no concerns/capacity issues. MR stated the question whether TNA could provide some assistance with anonymisation, is on the list to take forward.

Meeting with Australian Judgment Publications Office

6. NB summarised findings following a meeting she attended with MR.
7. In Australia each judge has up to two members of chamber staff assisting them. When anonymisation is required, their judgment is sent to the anonymisation unit. That office comprises of six staff, and approximately four of those at any one time are responsible for anonymising [around 2,231 judgments annually, from the two levels of the Family court, at an annual cost of £286,000]. They use basic software to help identify proper nouns and so on. The software is not machine learning assisted but augments the ability of the team to do their role.
8. NB described an intensive process whereby two individuals check every judgment before publication. The majority of judgments are dealt with by the anonymisation unit. In summary there are 98 judges [federal and circuit] and approximately 2,000 judgments published annually, managed by a six-person team.
9. NB was not entirely sure of the criterion for publication but assumed it is a public interest test, anonymised consistently with the Family Law Act 1975. There is an expectation that Tier 2 judges (roughly equivalent to DJ/CJ level) publish 5 judgments a year. NB further understood from the senior [federal] courts, only half [of 2,008 family law judgments] are anonymised and published externally.
10. NB calculated their annual cost in the region of £286,000; for the anonymisation unit where four staff work full-time on Family judgments.
11. MG approved the quality control mechanism and proposed would be good to replicate. MG asked whether they provided comment on jigsaw identification and what system they used.
12. NB cited a one-page article published in 2016, outlining their approach. The link is here: <http://classic.austlii.edu.au/au/journals/JLawInfoSci/2016/6.html>
13. NB also referred to their publication site AustLII; the equivalent to Bailli. AustLII has advanced software that can auto-take down [where identified information that should have been redacted]. Their quality control goes through to publication, complex judgments are checked by senior team member and double checked, and the reason it is so time intensive.
14. JD noted the Family courts of Australia only deal with private law cases. Public law cases are dealt with in the state courts. These hearings in open court would have reporting restrictions, so are likely similar to youth courts here. Therefore, all the information or

data from the Federal Family Courts is for private law applications, so even though busy they are not dealing with matters such as child protection.

15. AL referred to chamber staff assisting judges and speculated this may be akin to High Court Judges' clerks. Figures provided appear reasonably aligned to estimates HMCTS has been working on. It has been projected around 5,000 judgments would need to be anonymised and require 12 staff members. Estimates on timings have been considered and it is good to have some validation on costs.

Pilots subgroup – headline points from the draft PD

16. MR provided the following updates on behalf of JH:
 - The group is close to a completed plan for the pilot scheme;
 - They are in the process of selecting pilot areas: Cardiff is confirmed, Bristol and Worcester are the two other possible areas;
 - They are looking at three key points only [so they do not overload pilot areas], these include judgment publication processes and media reporting;
 - They are going to put the scheme to the Family Procedure Rules Committee [FPRC] and are in discussions on a timetable. The sub-group are concerned about a potential delay, but MR was unaware of specific issues;

LR clarified a divergence of views and the level of optimism, how quickly one could get a practice direction through the FPRC and within various corridors of MOJ. The Issue is how quickly and who takes carriage to draft and push through the system.

MR continued updating:

- They are having discussions about funding the evaluation of the pilot scheme;
 - Discussions held with the Department of Education [DoE] on the naming of social workers and what the general approach should be.
17. MR noted naming of a social worker in a media report is a different question from naming in a published judgment. There is a need however to be alive to what happens within the pilot scheme and issues such as naming professionals/experts when we get to our own guidance, i.e. who is named in judgments.
 18. LR clarified the DoE representative expressed an interest on behalf of DoE being involved in discussions when/if social workers should be named. On that point they are seeking to have input from the point of view of anonymisation guidelines in respect of publications. Although not spelt out, it is likely they want to ensure that social workers' interests are considered.
 19. HL further clarified social workers have been named in the press rather than in court proceedings. They are not usually named in published judgments and it is not usually appropriate to do so. There have been instances of social workers being named in criminal proceedings and is a difference between how the Family and Criminal Courts operate.

Data subgroup update

20. JD reported three meetings held. The time scales for data collection is quite separate from pilots and so forth, as data collection is associated to the implementation plan.

21. The sub-group have obtained details from MOJ currently working on the new case management system; taking over from Family Man. A video has been provided, although not currently accessible to explain how it works
22. JD reported attendance at the third meeting from Rosemary Hunter and Mandy Burton who designed a research pilot for the Domestic Abuse Commissioner and monitoring systems for domestic abuse. They gave a presentation of what is likely to be collected by way of data in private law. A large proportion of private law cases involve allegations of domestic abuse, and it looks promising. There were slides that could be usefully shared with other subgroups.
23. JD stated in terms of case management timescales, they have been trying to gather lists of the types of data we want to collect. Time scales are a bit of a concern because of the Reform programme and how quickly this is going through.
24. NB agreed it was helpful to hear about the Domestic Abuse Commissioner. The team are developing a feasibility study of that work. The mechanism they are developing, is a £ multi-million commitment into a research team and potentially helpful to us.
25. A list of the minimum data stakeholders felt they wanted collected through Reform systems has been put together. That has been sent onto HMCTS to indicate whether or not they hold it, or will hold it under reformed systems, and if so in what format.
26. NB speculated a likelihood of ending up in the way the domestic abuse mechanism was approached; identifying issue of concern and data needed to be assured the Family Justice system is dealing with cases well. They will then need to go through the exercise of establishing how much data is already collected and where it is. So, we are looking at case management, and systems being mapped.
27. NB said the next stage is establishing required costs to fill gaps and how to fill these, by changing fields on case management. The fifth stage is looking at required formats.
28. NB said one thing the sub-group might usefully do with the PFD is take this back to first principles, to address trust and confidence in the Family system. That could provide a range of issues to have better data on to then go through a process of reviewing and mapping against what is collected by case management systems.
29. NB also stated concerns we have come late into the current journey of Reform and the potential of putting money into the system to retrofit what is needed for data collection. The idea of the digital case management system is it is meant to be flexible. The question is can we arrive at a sensible list of requirements in the timeframes and will there be a budget available
30. CW said one of the main points discussed at the data group was gathering sufficient granular data and accurately, to generate useful reports for implementing change going forward. This is obviously also relevant to anonymisation.

Item 4 – Plan for work going forwards

Strands of work: division of labour by dividing into 3 groups?

31. MR outlined a need to plan and divide up work. Three work strands were identified following the discussions at the last meeting:
 - Group A - Publication guidance for Judges;
 - Group B - Anonymisation guidance

- Group C - Anonymisation Unit/ Admin Support

32. MR has already contacted the proposed leads and would like to ascertain anyone interested to support those areas of work [four to six names]. The intention is those groups undertake the initial work on drafting etc but report back regularly to the main group for wider discussion.

Group A - Publication guidance for Judges

33. MR has suggested Adem leads this work, as he is aware of difficulties DJ's have, and with additional workloads. The aim is to find out from different levels of judges, how they deliver judgments and the easiest way to get these published. Judgments can be delivered in writing, anonymously or not; or orally, some transcribed, some not transcribed unless there is reason. There is a need to establish how many, and understand now how it is working, that is the main purpose of the group. Focus groups are likely to be a helpful tool in getting an insight into judicial ways of working.

34. The following were agreed:

- DJ Adem Muzaffer (Lead)
- Charles Hale QC
- Femi Ogunlende
- Dr Julie Doughty
- HHJ Reardon
- Jack Harrison

Group B - Anonymisation guidance

35. MR noted it is key to get resourcing in place. A big part of the work the Anonymisation Subgroup is to establish a scheme to provide administrative support for judges anonymising and publishing judgments and to design and do costings for an Anonymisation Unit. The work on anonymisation guidance goes alongside that.

36. At the last meeting various views on anonymisation identified too much guidance in different places and a need to simplify.

37. LR agreed it needs to be consolidated, streamlined and accessible; sufficiently flexible for the needs of the case and to be useful framework.

38. HL was unable to fully commit as a member but offered to liaise with Jack Cordery and assist with any specific writing, reading and so on.

39. LR stated a need for contact with Group A to work out what usefully to say in the guidance.

40. JD suggested representation from the Young Peoples Board [YPB] to gather their concerns. If no -one from there, perhaps to co-opt someone else. CW said although she does not sit on the YPB, she may broadly be a best fit.

41. MG has a lead role within Cafcass with the YPB, so volunteered to help. There is a high-level interest in transparency from the Board, so she could facilitate either them attending meetings or reviewing drafts.

42. MR noted work required to get to a first draft, but emphasised the Subgroup as a whole maintains overall decision-making and oversight.

43. HL considered a possible need for reference readers and could get support from the local authority lawyers' group if helpful. MR suggested that the main group sees everything

first before putting a draft out for comment, otherwise we could lose track of where we are with the draft.

44. NB mentioned a need to focus on the feelings of children and young people and wondered if YPB was sufficient to obtain the variety of views. Is there sufficient ambition across TIG as a whole to think about how we might do focus groups with young people, with experience of care systems. This could help improve our understanding of the issues and develop a robust methodology/demonstrate we have thought seriously about concerns.
45. MR considered this may be a consideration for the main TIG. After further reflection the group agreed it may be helpful to circulate material currently available setting out the views of young people. Also, from the transparency review project to refresh ourselves.

Action JD/LR 01/02

46. The group was agreed as follows:

- Lucy Reed (Lead)
- Jack Cordery (plus ad hoc assistance from Helen Lincoln)
- Charles Hale QC
- Clare Walsh
- The FJYPB (thought required re how best to have their input)
- HHJ Reardon
- Jack Harrison

Group C. Anonymisation Unit/ Admin Support

47. NB confirmed the purpose to look at potential options with a view to creating a paper to support HMCTS, for example potential options and how to best fit a Unit into the infrastructure. Undertaking interviews with key stakeholders, to understand budgets. NB suggested Adam may be a useful addition due to his prior experience.
48. TS volunteered Maxine Monk and suggested TNA might also be able to assist [as they are already doing their own due diligence and publication policy in support of HMCTS/MOJ]. Although there is a role in technology down the line, TNA is still a manual process, with a dedicated team to manually review, with extra level checking. TS considered the impact of costs and that automation may result in costs going down.
49. NB agreed this may change due to lack of standardisation. This very much depends on Lucy's group and anonymisation guidelines recommended. NB said she would contact John [from TNA]
50. The group was agreed as follows:

- Dr Natalie Byrom (Lead)
- Adam Lennon
- Maxine Monk
- John Sheridan? (tbc)
- HHJ Reardon and Jack Harrison to support as required

Item 5 - Review of workflow timetable – key date is July 2022 for first version of draft guidance

MR noted the workflow timetable was reviewed at the last meeting. The key date is July 2022, to have a first draft of the guidance available so the PFD can view.

51. All were content with this timeframe.

Item 6 – AOB [5 mins]

52. TS clarified the TNA service is due to go live on 16 April 2022

53. MR thanked everyone for their time and said a follow up meeting would be scheduled in April.

Meeting ended 17:33