

Family Court Transparency Implementation Group

1st Progress Report

This is the first progress report upon the work of the Transparency Implementation Group [‘TIG’] established by the President of the Family Division to bring about the changes proposed in his review of Transparency in the Family Court published on 28th October 2021¹.

The TIG, which consists of some 30 members, first met on 15 December 2021. At that meeting it was determined that the work of implementation would be undertaken via four, now five, sub-groups:

- Press attendance and reporting (pilot) sub-group
- Data collection sub-group
- Media engagement sub-group
- Anonymisation and publication of judgments sub-group
- Transparency in financial remedy cases sub-group.

Copies of the minutes of the main group and each sub-group can now be found on the new Judiciary website². More generally, the Judiciary website now has a specific page devoted to the TIG where further relevant material can be found³.

What follows is a short summary of the progress to date of each sub-group.

Press attendance and reporting (Pilot) sub-group

The legal framework, training requirements and process of evaluation have all been agreed. The proposed scheme will permit reporters and legal bloggers not only to attend but to report on proceedings otherwise conducted in private in the Family Court, subject to maintaining confidentiality of the parties and children. The plan is to pilot the scheme in three courts in England and Wales starting in November. The start date is subject to confirmation of funding and the final identification of the three courts. It is anticipated that the three courts will be publicly identified during early October.

¹ <https://www.judiciary.uk/guidance-and-resources/transparency-in-the-family-courts-report-3/>

² <https://www.judiciary.uk/guidance-and-resources/transparency-implementation-group-minutes-and-sub-group-minutes/>

³ <https://www.judiciary.uk/about-the-judiciary/our-justice-system/jurisdictions/family-jurisdiction/transparency-implementation-group/>

Data collection sub-group

The data collection sub-group has:

1. Created a high-level road map for a data strategy
2. Focused on six core questions for that strategy (i.e. the questions that the data which is collected will need to go towards answering):
 - a. What happens to a family before they come to court?
 - b. Who comes to court?
 - c. What are their experiences of court?
 - d. How is the family court operating?
 - e. What decisions are being made about children and families?
 - f. What are the immediate and ultimate outcomes of these decisions?
3. Started the process of identifying what data is currently collected, where it is stored and how it can be accessed and by whom. Consideration is being given to building from HMCTS CCD, the Domestic Abuse Commissioners projects, and Cafcass data. This data mapping process will conclude in the next quarter.
4. Considered how data will be reported, where and at what frequency.
5. Started to develop an annual report structure - this year the report is likely to focus on the strategy for data, and future reports will incorporate more data analysis and data driven insights with a topical focus.
6. Recognised that the fact of transparency in itself may have an impact on the court and the families. Consideration is therefore being given to how to gather data on the amount of press coverage.
7. Understood the challenge of making court listing simpler to understand.

A bid for funding for the further work of the data group is being processed.

Media engagement sub-group

The aim of the sub-group is to implement the goal of establishing a relationship of trust and confidence between the media and the Family Court and to ensure that any reporting of Family Court proceedings is reliable and well informed, whilst maintaining the anonymity of children and family members who are before the court. Such reporting will increase transparency within the family justice system, which is likely to enhance public confidence significantly.

A key aim is to establish channels of communication between the Family Court and the media. At a national level, this will mean links between the President and national organisations/bodies, with a wider national group to be established comprising of industry representative bodies and judges, and at a local level links between designated family judges within the regional courts and their local media.

A large media group meeting was convened over the summer, attended by members of the sub-group and various media representatives. The purpose of the meeting was to discover what those with the relevant expertise consider to be the optimal arrangements for establishing the proposed media groups, nationally and regionally. On a regional level, it is proposed that there would be benefit in designated family judges meeting with local journalists, with the national group focussing on wider issues which arise within the Family Court.

The sub-group is now working on a guidance document, to reflect the purposes, aims and parameters of national and local media groups.

Anonymisation and publication of judgments sub-group

The main focus of the sub-group so far has been to produce a first draft of new judgment publication and anonymisation guidance. That draft is now with the President for review and will then be considered by the main TIG. The guidance has been agreed by the sub-group as a whole and there has been input from all members including, importantly, representatives from the Family Justice Young People's Board.

In order to inform work on issues surrounding publication of judgments a number of focus groups were run with members of the judiciary at all levels from Legal Advisors to High Court Judges. This provided valuable information about the day-to-day process of putting together a judgment, carrying out the anonymisation process and then publishing it. The draft guidance is accompanied by a report summarising the information that was received. It includes recommendations in respect of the volume of judgments to be published, and how judgments should be selected for publication.

Work has also been undertaken on a proposal for an Anonymisation Unit to help judges with the work of anonymising judgments for publication. Members of the group met with civil servants in Australia where the work of publication is supported by a dedicated Anonymisation Unit, to find out how the anonymisation process works and to get an idea of what level of resource would be required to support a similar unit here. A bid has now gone in for funding

for an initial scaled-down version of the Anonymisation Unit; provided funding is granted, the next piece of work for the sub-group will be to develop and deliver training to the Anonymisation Unit. Following that there will be a need to evaluate the capacity of the small-scale pilot unit, with a view to putting forward a proposal for a permanent version.

Transparency in financial remedy cases sub-group.

The Information collection stage has now been almost completed. This has involved the following:

- Obtaining papers from Chancery, KBD and CoP specialists as to how transparency issues are considered in those jurisdictions (CoP paper remains outstanding)
- Considering the present legal position in the Financial Remedy Court on transparency
- Obtaining information from lawyers from different jurisdictions as to the approach – this has included Scotland, Ireland, the United States, Canada, New Zealand and Australia
- Conducting a survey of judges, lawyers and other interested parties on the issues. A total of 585 responses were received (288 Solicitors, 135 Barristers, 11 Legal Executives and 24 ‘Others’ including press as well as 103 full time judges (12 HCJ, 20 CJs and 71 DJs) and 88 part-time judges)
- Considering the specific issues required to anonymise FRC judgments – as opposed to children judgments.

The group is now analysing all of the information before reaching conclusions. Thereafter, the aim is to write up the proposals and research by the end of November.

President of the Family Division Office

30 September 2022

Best wishes