

## **Transparency Implementation Group**

### **Media Reporting: Update on pilots**

**Wednesday 26 October 2022, 16.30 – 17.30 (via MS Teams)**

#### **Attendees**

**Mrs Justice Lieven** (Chair)

**Jack Harrison** (Secretary) (Coram Chambers)

**Sian Harrison** (Law Service Editor, PA Media)

**Lisa Allera** Judicial Office Comms

**Louise Tickle** (Independent Journalist)

**John Battle** (ITN)

**Sanchia Berg** (BBC)

**Sayra Tekin** (News Media UK)

**Alice Twaite** (Legal blogger)

**Katie Inman** (BBC)

**Grace Hodges** (Acting PS to President of the Family Division)

**Kim Webb** (Secretariat)

#### **1. Introduction and purpose of pilot**

Lieven J explained the purpose of the meeting was to get feedback from the media about potential issues, which are being raised by various stakeholders about the pilot. Specific feedback included getting an idea of how much interest there would be in the pilot from journalists, where the interest lies and how it could be managed.

The President's long-term aim is to build confidence in the family justice system. The pilot aims to test how transparency can be achieved. The sub-group wants to make ensure that greater transparency can be achieved whilst preserving the anonymity of the children and making all the parties in the proceedings feel safe.

The sub-group and the President are keen that the pilots work for the press and the parties and keeps the children anonymous.

Lieven J confirmed the three pilots as Cardiff because its Welsh, Leeds because its urban and Carlisle because its rural. Given the various practical concerns raised by the pilot sites, the current intention is to launch in mid-January 2023. The idea is to start in public law and then bring in private law six to eight weeks later.

The following points around the dates for the pilot and the level of interest from journalists was discussed:

- There was general agreement from the media reps that, in order to start on the right foot, a start in January 23 would be sensible. Current circumstances

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mean that journalists are extremely busy and therefore a delay would be beneficial in this respect.

- There was agreement that starting public law cases first as they have the greatest urgency, however, this should not be at the expense of private law, so there shouldn't be too much of a delay.
- Media reps did not agree with the view that the pilot courts would be inundated as they do not currently have the resources for this. It will take a practice shift for journalists to start to engage with family courts. Need information on lists in order to get engagement.
- Sayra Tekin volunteered to do presentations to journalists to give industry viewpoints and give practical examples.
- Sian Harrison suggested that over the next few months, reporters should be encouraged to attend, with section 12 in place to get them used to what they will be faced with in family court. This would also get judges, court staff and parties used to someone being there.
- Lieven J suggested that Sian and Sayra liaise and if they can get a few reporters together, a meeting could be set up to meet the local leadership judge known as a Designated Family Judge (DFJ), watch a DFJ list and talk about how the pilot will work.
- Sanchia Berg confirmed that she can make contact with local and regional and national correspondents would potentially be interested in covering this. She can help people learn about the family courts. She would like to be informed of any meetings with DFJs.
- The point was made that it would be important to build up relationships especially between lawyers and journalists. Journalists would also be anxious about getting things wrong, so important to set up relationship with judges' so they know how things work. Louise Tickle said that she would be happy to get involved in that.
- There is difficulty with journalists knowing what cases are on. Lieven J confirmed that HMCTS don't have the resources to increase the information currently available on lists and so the pilot will need to start with info as it stands.
- John Battle stated that an announcement or press release would be required to say that the pilots are going ahead to give media time to reflect and prepare.
- John Battle referred to finding out what happened with the Court of Protection (CoP) pilot.

**Action: Sian Harrison and Sayra Tekin to arrange for a few reporters to get together to meet the local Designated Family Judge. Sanchia Berg to be updated with any dates.**

**Action: John to speak to Rumana about what happened with the CoP pilot and report back.**

## **2. Training**

Lieven J and Jack Harrison are putting together a training package for judges, Cafcass, staff and local authorities. They will do a Teams event specifically for journalists on how the pilots will work. The session will be recorded and placed on the main TIG pages. The event will be open to all journalists to attend.

The intention is to produce slides for the training but not a journalist's guide to the family courts. Jack's group will potentially produce a one-page flowchart/checklist for

journalists to allow them to know what to expect and what documentation they need to bring to court

**Action: Lieven J and Jack Harrison will produce a timetable for possible dates and circulate to media reps.**

Louise Tickle pointed out that there will be a need for ongoing sessions, which the various media organisations will organise on their own.

### **3. Practice guidance draft**

Concern was raised about the current wording in para 13 of the practice guidance, which currently reads, 'At present, a duly authorised journalist or legal bloggers may attend a family court hearing as a right'. As the wording 'duly authorised' raised some confusion, Lieven J and Jack agreed to take this away and look at it.

**Action: Lieven J and Jack Harrison to review the wording of para 13 of the practice guidance.**

Louise Tickle asked whether a journalist has to have been to a family court hearing first before a family member is allowed to speak freely to them about their case.

Lieven J confirmed that a family member who tells a journalist about their case and invites them to come to court following that conversation may be in breach of section 12 of the Administration of Justice Act 1985. The only option is to give retrospective permission. There is a provision in the order, if the transparency order is granted to give retrospective permission to the family to have talked to the journalist.

Louise asked if journalists can quote the family as this would likely be the first question that journalists would ask. Lieven J agreed to take this away and have a think prior to the training.

**Action: Lieven J to consider the question around whether journalists can quote the family.**

John Battle asked what would happen if journalists got it wrong. Lieven J accepted that things may go wrong but hopes there will not be any major breaches of anonymity. She cannot limit what a fellow judge decides, however, would hope at the least, that every journalist would have tried to comply with the terms of the order and acted in good faith, and if there are proceedings, that would be clear to any judge who heard those proceedings.

### **4. Whether the media are asked to tell the court in advance they are attending**

Concern was raised by media reps that journalists don't work like that and are often told at very short notice and are unable to give notice. John Battle pointed out that giving notice to the court for family cases would not be consistent with other jurisdictions. It risks creating another procedural problem, which will dissuade journalists going to court.

Lieven J mentioned that she has stakeholders pulling in very different directions on this issue and so is minded to say that, it would be really helpful to the court, if you know you are going to attend to let the court know but the fact you haven't let the

court know is not a reason to refuse a transparency order. This will be made clear to the judges.

Confirmation was given that journalists can't be required to give notice. Encouraging but not requiring is the right way.

Concern was raised around the amount of leeway for a judge to refuse to allow a journalist to report. Louise Tickle asked whether there would be a process to challenge a decision if they didn't think it was right.

Lieven J confirmed that there is an appeal route. Some public law appeals may go to the Court of Appeal, which may be picked up by the President.

Lieven J confirmed that there will be an evaluation of the pilot and that she is considering having monthly feedback sessions with journalists. Whilst she needs to get a sense of how many orders are being refused, she needs to do with without crossing the line into case specific decisions.

## **5. Next steps**

Lieven J confirmed the aim was to send out the practice guidance in the next two to three weeks.

A note of this meeting will be circulated. Media reps will be kept up to date by the Judicial Office on timescales.