



PRESIDENT OF THE
FAMILY DIVISION

**The Transparency Implementation Group (TIG):
Minutes of the meeting held on 31 October 2022 (5.00pm – 6.00pm)
(remote meeting via Microsoft Teams)**

Attendees: The President of the Family Division (Chair)
Mrs Justice Lieven (Co-Chair)
HHJ Madeleine Reardon (Co-Chair)
HHJ Stuart Farquhar
Nicola Shaw
Jack Harrison (Co-Secretary)
MoJ Policy
HMCTS Operational
HMCTS Legal Adviser
The Judicial Private Office
DfE Policy
Representatives from the Family Justice Young Peoples Board (FJYPB)
Dr Natalie Byrom (Director of Research, The Legal Education Foundation)
Dr Julie Doughty (Senior Lecturer in Law, Cardiff University)
Lucy Reed (Barrister and Chair of the Transparency Project)
Sian Harrison (PA Media)
Guy Vassall-Adams KC
Charles Hale KC
Femi Ogunlende (Barrister)
Angela Frazer-Wicks (Trustee, Family Rights Group)
Olive Craig (Senior Legal Officer - Rights of Women)

Jack Cordery (National Director of Operations, Cafcass)

Observers from each sub-group

1. Welcome

Apologies were received from: DJ Adem Muzaffer, Helen Lincoln and MoJ Legal. The President said that the purpose of the meeting was for the chairs of the five sub-groups to update the TIG members about the stage which their groups had reached. Funding had been identified and the procurement process had begun.

2. Updates from each sub-group

The Media Reporting/Pilots Sub-group (chaired by Mrs Justice Lieven)

Three pilot courts had been identified, i.e. Cardiff, Carlisle and Leeds; the pilot would launch in mid-January in order to allow sufficient time for final arrangements to be made. Mrs Justice Lieven and Jack Harrison had visited Cardiff and Leeds Family Courts to train judges and staff ahead of the launch. The transparency guidance would shortly be finalised prior to sign-off by the President, alongside the transparency order. Further training sessions would be held for the judiciary, the media and local authorities/lawyers/Cafcass. An easy read guide had been produced for parents following input from Angela Frazer-Wicks and the FJYPB. Efforts would be made to finalise the evaluation process prior to the launch of the pilot, but this might not be possible. A meeting had taken place with media representatives who had suggested that, while the pilots would generate media interest, it was unlikely that the courts would be overwhelmed by press attendance.

The following points were made/discussed:

- that evaluation was key – not least because of the understandable nervousness about cultural change.
- that thought would need to be given about how to capture feedback from children and young people, and what timeframe that feedback should cover.

The Anonymisation and Publication of Judgments Sub-group (chaired by HHJ Madeleine Reardon)

The sub-group had circulated draft publication guidance to TIG members prior to the meeting, as well a report, prepared by DJ Adem Muzaffer, on the judicial focus groups run by the sub-group (which had looked at the process of judgment preparation and the potential barriers to publication). The feedback from the judges supported the principle of publishing more judgments, however strong views were expressed about the time and resource pressures that this could entail, e.g. by the need to anonymise or transcribe judgments, and thus the requirement for extra support; these views had informed the draft guidance.

The draft guidance covered the issue of how judges should select judgments for publication and how many should be published, annually, at each level of judiciary. In terms of the approach to anonymisation the guidance had encapsulated the current legal position and simplified the process; the input of the FJYPB had been particularly valuable. The sub-group

were liaising with the Financial Remedies Court Sub-group (which was also looking at the issue of judgment publication). The issue of funding an anonymisation unit, within HMCTS, was being discussed; this would ultimately require a political decision.

Update: The Justice Committee's Fifth Report - *Open Justice: court reporting in the digital age* (which was published on 1/11/22), had made a number of recommendations about the Family Court, one of which was:

45. HMCTS should ensure that the requisite resources are provided to enable the establishment of an anonymisation unit that facilitates the publication of at least 10% of Family Court judgments without the risk of identification of the parties involved.

A solution had been found which allowed Circuit Judges and District Judges to publish judgments (following the judgment publication process moving from BAILII to the National Archives).

Action: group members to send their comments on the draft guidance to HHJ Reardon.

The Data Collection Sub-group (chaired by Nicola Shaw)

The sub-group had considered what data already existed as well as the purpose in collecting it. They had narrowed their enquiries down to six questions, i.e.

- What happened before cases came to court?
- What happened during the court process?
- What were parties' experience of the court process?
- How did the court process work?
- What decisions did the court make?
- What were the outcomes of the courts' decisions?

Research would be commissioned to understand what data was currently collected in each of these areas and what was missing; the data would include both financial and non-financial cases. The group had liaised with The Domestic Violence Group (which had carried out similar work regarding data).

The group had set up a structure for a proposed annual report which was being discussed with the President – he was keen for the first annual report to go out in January 2023. They were considering the linkage between transparency and the actions of the court, potential changes to how cases were reported over time, and how these might be influenced by outside influences.

Action: TIG members were invited to send Nicola Shaw any ideas on the interrelationship between transparency and activities in the court.

The Financial Remedies Court Sub-group (chaired by HHJ Stuart Farquhar)

The main issue for the sub-group was to decide whether financial remedy court cases should be anonymous. They had received a large amount of information from other jurisdictions in England and Wales, as well as a number of overseas jurisdictions, on the issue of transparency/money cases; unfortunately they had only received a small number of submissions from journalists.

The next step was to write a report, which set out the arguments for and against anonymity, and make recommendations; it was hoped that this would be done by January 2023.

The Media Engagement Sub-group (chaired by the President of the Family Division)

The sub-group would hold a meeting, in mid-November, to consolidate the establishment of the national group (i.e. a fixed body consisting of media representatives, judicial representatives and others) which would discuss issues between the national media and the Family Court. The sub-group would then produce guidance for Designated Family Judges (DFJs) for establishing channels of communication with their local media: this would hopefully occur by spring 2023 as DFJs had many current demands e.g. the rolling out of the digital reform programme.

The following points were made/discussed:

- That work was ongoing to engage with the media in the pilot areas, including encouraging journalists to attend courts prior to the pilot's launch, but there could be greater challenges when transparency was rolled out nationally.
- That there was a need to develop more legal bloggers, which would require outreach and training.

3. AOB

- The President confirmed that steps were being taken to recruit two Magistrates to join the TIG.
- The new TIG web page could be accessed at: [Transparency Implementation Group - Courts and Tribunals Judiciary](#)
- The pilot commencement date would be announced in November. Plans were being made for a pilot launch event in January, which would include some interviews by the President.
- The TIG was informed about the event (on 2 November, at 6.30pm) which was hosted by Tortoise Media and The Bureau of Investigative Journalism: *Reporting Family Courts: what's the state of play?*