

TRANSPARENCY IMPLEMENTATION GROUP

MEDIA REPORTING SUB-GROUP

6 March 2023, at 4.45pm (via MS Teams)

Attendees:

Mrs Justice Lieven (Chair)

Jack Harrison (Secretary)

HHJ Clive Baker

HHJ Jonathan Furness KC

HHJ Alexander Kloss

DJ Adem Muzaffer

Lisa Harker (NFJO)

Dr Julie Doughty

Olive Craig (Rights of Women)

Guy Vassall-Adams KC (Barrister)

Lucy Reed (Barrister)

Connie Purdy (Barrister)

Laura Beattie (Barrister)

Natalie Byrom

Sian Harrison (PA Media)

MoJ Policy

Judicial Private Office

HMCTS Operational

DfE Policy

Welcome and apologies

1. Mrs Justice Lieven welcomed HHJ Clive Baker, HHJ Jonathan Furness KC and HHJ Alexander Kloss to the group.
2. Apologies were received from HHJ Nancy Hillier, DJ Joanna Geddes, DJ Jamie Saunders, Charles Hale KC, Angela Frazer-Wicks, MoJ Legal and HMCTS Legal.

Update on progress of the pilot

3. It was felt that the pilots were progressing well although it had been hard work; Mrs Justice Lieven paid tribute to the work and support of the Pilot Court Judges and their staff. The single biggest issue was listing: the current proposal was that the 'gatekeeping judge' could have a schedule of broad case headings which could be categorised using letters of the alphabet etc. The gatekeeping order could indicate which categories came within the case and this could be shown on the list; if the case subsequently changed then the judge could change the categories. It was felt that this would be an appropriate help to journalists/legal bloggers without placing an undue burden on the courts. It was noted that the technical possibilities would require further investigation; Mrs Justice Lieven confirmed that stakeholders would be consulted before a final decision was taken.
4. Guy Vassall-Adams KC noted that, in the County Court and the High Court, the lists only included the names of the parties – it would be a positive step if changes in the Family Court could lead to more informative lists in other jurisdictions. He queried whether advocates in Pilot Court cases could have a duty to produce a short summary about what the case was about (which could be the basis for the information which was provided to the media); some group members suggested that this might not be a straightforward task.
5. HHJ Furness KC and HHJ Alexander Kloss highlighted the fact that some family members in pilot cases had raised objections and had not understood that making the transparency order would prevent identification. Lucy Reed's experience was that, once parents had transparency orders explained to them, they usually withdrew their objections; it was noted that the parties' positions on key issues were usually recorded in recitals.
6. A number of people stressed the importance of providing information for family members, in advance of hearings and at court, on account of fairness and the impact

which this could have on them. It was confirmed that local authorities were expected to send out information on the pilot when they received the sealed application (which was served on parents).

7. Another issue was the Family Drug and Alcohol Court (FDAC), which aimed to be more a consensual, intensive way to get solutions in public law cases and had achieved a high measure of success. It did not seem appropriate to admit journalists into these hearings when lawyers were not in attendance, however they could attend when lawyers were present (unless a judge thought there was a particular vulnerability). Similarly, journalists might be able to attend an advanced stage of proceedings, in a non-lawyer review, if the judge felt that matters were progressing well and it would benefit the principle of open justice. DfE Policy supported this approach and asked to be kept informed about any developments.
8. A matter under discussion was whether independent social workers could be named during the pilot; MoJ Policy drew a parallel between their work and that of local authority social workers in terms of engaging with families. Mrs Justice Lieven and Jack Harrison would further discuss this with the President of the Family Division.
9. Sanchia Berg had attended a number of Pilot Court hearings and was doing a series, on the BBC Today programme, which would include an interview with Mrs Justice Lieven; during the pilot Ms. Berg had noted the efforts made by the family justice system to keep families together wherever possible. Other articles had been published by the national media and Lucy Reed had written a blog on the Pilot Courts.
10. Mrs Justice Lieven and Jack Harrison would be discussing emerging issues from the pilot with the President of the Family Division; group members were encouraged to send Mrs Justice Lieven any thoughts which they had.

Action: Jack Harrison to look into the issue of producing information posters for display at the Pilot Courts.

Action: HMCTS Operational to provide an update on enriched information (as part of the Listings Project).

Action: MoJ Policy to send Mrs Justice Lieven some feedback on the transparency order.

Action: Group members to send Mrs Justice Lieven and Jack Harrison their thoughts on any issues which have emerged from the pilot.

Launch of private law

11. HHJ Clive Baker had circulated a paper which recommended that, in view of the 12-month duration of the pilot, there would be advantage in fully establishing the public law pilot before turning attention to private law, not least because a disproportionate amount of private law was done by fee-paid judges and there were a high proportion of litigants in person. Other group members supported delaying the transition until practical issues e.g. how to get transparency orders out, had been resolved. The introduction of the pilot in Magistrates Courts would be considered after it was extended to private law.

Action: Mrs Justice Lieven and Jack Harrison to discuss the launch of the pilot in private law, and a potential date, with the President of the Family Division.

Evaluation

12. It was confirmed that the evaluation company had received the contract and it awaited signing; it was noted that a number of people had worked hard to get to this stage. The research design would be shared with the group once it was agreed.

Action: Mrs Justice Lieven to circulate the evaluation document for comments by the group (TBC)

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13. Nothing was raised.