

The Transparency Reporting Pilot

Bulletin 1: April 2023

1. The reporting pilot launched on 30 January 2023 in Cardiff, Carlisle, and Leeds. The progress has been reviewed regularly by the TIG, working in conjunction with the Designated Family Judges, Transparency Liaison Judges, and local pilot liaisons.
2. The review process has highlighted further issues that require guidance. The purpose of this bulletin is to address these issues. This document is intended to add to the authoritative guidance issued on 26 January 2023.
3. Material will continue to be added to the TIG Website (www.thetig.org.uk); the enquiries inbox remains open (pilots@thetig.org.uk).

Family Drug and Alcohol Courts (FDAC)

4. The FDAC is specially designed to work with parents who struggle with drug and alcohol misuse. Care cases that involve these issues in Leeds and Cardiff are sometimes routed through FDAC. There are two types of court appointments in FDAC: normal hearings, and fortnightly “non-lawyer reviews” (NLR).
5. A normal hearing falls within the scope of the pilot, and within FPR2010 r.27.11. Pilot reporters may attend as of right and may report if a transparency order is made. NLRs are not hearings within the case; they are more akin to a hearing conducted for the purpose of judicially assisted conciliation or negotiation (and therefore outwith r.27.11). These appointments are often semi-therapeutic conversations between the parents, the judge and the FDAC support. If a pilot reporter wishes to attend an NLR in an FDAC case, they must first attend a normal court hearing and raise the issue with the judge.

Independent Social Workers (ISWs)

6. ISWs work either on the instruction of the local authority, or on the joint instruction of the parties as an expert. The pilot starting point is that social workers and Cafcass guardians or reporting officers are not ordinarily to be named. A question has arisen as to where ISWs fall, and the issue has been given extensive consideration.
7. If an ISW is working on the instruction of a local authority only and taking the place of the local authority social worker in the preparation of assessments or work with the child, the starting point is that they should not be named.

8. If an ISW is appointed by the court pursuant to FPR2010 r.25 as an expert, either at the joint expense of the parties or the local authority, the starting point is that they should be named, as with all other experts.

“Making Lists Better”

9. There is a poverty of information at present in the published court lists. Together with HMCTS, the TIG has suggested a solution to ensure that court lists contain sufficient information to allow pilot reporters to make decisions about which cases to observe and report on. This project is called ‘Making Lists Better.’
10. Without an improvement in the flow of information between the court and the press, the pilot risks failure, and hearings will continue to take longer with reporters going into hearings without any information.
11. The intention is that the public court list will contain a series of codes for cases falling within the pilot. The codes will correspond to a ‘code breaker’, set out below, which lists the issues involved in the case. The issues will be identified by the gatekeeping judge or legal adviser, who will make an Order as part of gatekeeping that the case appears on the list in a certain way. The code breaker will be available on CourtServe, and on the TIG website. This proposal is currently being impact assessed by HMCTS.
12. In addition, the practice of not naming local authorities on court lists will cease. Cases normally appear as ‘Re: A Child’; they will now appear as ‘Leeds City Council v A Child’, so the pilot reporter knows which local authority is involved and can direct any enquiries accordingly.

Case Category

A	Hearing that reporters are not entitled to attend
B	Hearing that reporters are entitled to attend but is not within the pilot
C	Reporting pilot case

Case Issues/Allegations

1	Alleged neglect
2	Alleged physical harm
3	Alleged sexual harm
4	Alleged emotional harm
5	Alleged Domestic abuse

6	Alleged FGM
7	Alleged trafficking
8	Deprivation of Liberty/Secure Accommodation
9	Contact issues/prolonged period of no contact
10	Factitious or induced illness
11	Schooling
12	Medical treatment
13	Relocation (in jurisdiction)
14	Relocation (out of jurisdiction)

13. A case that may have previously appeared only by its case number will therefore now appear:

“10.00am LS22C50029, Cat C: 2, 8, Leeds City Council v A Final Hearing”

Evaluation

14. The MOJ has provided funding for an independent evaluation of the pilot. The evaluation will look at the efficacy of the process of applying for transparency orders, and the impact of the pilot on children and families.

15. After a competitive process, the MOJ has appointed the National Centre for Social Research (NatCen) to undertake the pilot evaluation. NatCen will begin its work immediately, and report to the TIG in the winter of 2023/24, whereupon the TIG will formulate final recommendations for implementation of reporting in family justice.

Further Roll Out

16. The pilot will be extended to cover private law child cases on 15 May 2023.

17. It is likely that the pilot will extend to cover hearings before magistrates in the autumn.

Transparency Orders

18. An updated draft transparency order is attached to this guidance.

Rt Hon. Sir Andrew McFarlane
President of the Family Division
26 April 2023