

The Transparency Reporting Pilot for Financial Remedy Proceedings

Guidance From the President of the Family Division

INTRODUCTION

1. In October 2021, I published “Confidence and Confidentiality: Transparency in the Family Court”, a review of the issue of transparency in family justice. I made several recommendations for achieving better and purposeful transparency in the family justice system.
2. In November 2021, I set up the Transparency Implementation Group (“the TIG”). The aim of the TIG is to pilot and oversee implementation of the recommendations within my report. The TIG had its first meeting in December 2021 and has been working to implement the recommendations since, mainly in sub-groups with allocated responsibilities.
3. On 30 January 2023, I launched a one-year pilot scheme to permit reporting of children cases subject to anonymity of the children and families before the court, and confidentiality in respect of intimate details of their private lives. That scheme is now underway in three designated court areas (Cardiff, Leeds and Carlisle) and is due to be rolled out to further courts in early 2024. I issued guidance for the pilot in January 2023. That guidance sets out the aims of the pilot, who may attend and report on proceedings, the process of making a Transparency Order, the type of proceedings within the scope of the pilot, provisions for access to papers and documents, and guiding principles for reporters and professionals involved.

FINANCIAL REMEDY PROCEEDINGS

4. At paragraph 33 of my January 2023 guidance, I stated that the pilot does not apply to financial remedy cases, and that “The issue of transparency in financial remedy cases is being looked at by another sub-group of the TIG and does not form part of this guidance”.

5. That sub-group was set up in January 2022 under the chairmanship of HHJ Stuart Farquhar. I am immensely grateful to him and the members of his group. The scope of the sub-group was to consider all issues of transparency as they impact upon the Financial Remedies Court (“FRC”). The group received significant input from beyond the specific field of financial remedies, including representatives of the media and legal bloggers, and practitioners with expertise in KBD, Chancery, media and Court of Protection work. A full consultation process was undertaken, receiving 585 responses, and evidence of the practices in a number of overseas jurisdictions was gathered.

6. During the course of the sub-group’s work, a number of first instance High Court decisions by Mr Justice Mostyn shone a critical spotlight on the hitherto widely accepted practice of regarding financial remedy proceedings as confidential and only reportable with permission of the court. The sub-group has analysed the legal position in some detail, but rightly has not sought to express a view as to whether the contrary approach taken by Mr Justice Mostyn is correct at law. Instead, it has considered where the balance should lie between Articles 8 and 10 (regardless of whether the starting point at law is one of reportability or not) and reached conclusions as to the extent to which reporting should be permitted in financial remedy cases.

7. In April 2023, the report of the sub-group was published. It made a number of recommendations, which can be seen at a glance in a table at pages 11-12 of the report. They include:
 - a. Out of court settlements should remain confidential and private;
 - b. All cause lists should contain the names of the parties and identify that the subject matter of the hearing is financial remedies;
 - c. The current provisions enabling reporters (that is to say, authorised media and legal bloggers) to attend hearings should continue unchanged;
 - d. In any case attended by a reporter, a Reporting Order should be made entitling the reporter to see the ES1 and position statements of the parties, and setting out what reporting is permitted in the case, whilst preserving the anonymity of the parties, and the confidentiality of their most private details. The suggested

core principles are that a reporter should be permitted to publish information relating to the proceedings save for the following:

- The names and addresses of the parties (including any intervenors) and their children and any photographs of them;
 - The identity of any school attended by a child of the family;
 - The identity of the employers, the name of the business or the place of work of any of the parties;
 - The address of any real property owned by the parties;
 - The identity of any account or investment held by the parties;
 - The identity of any private company or partnership in which any party has an interest;
 - The name and address of any witness or of any other person referred to in the hearing save for an expert witness.
- e. District Judges and Circuit Judges should be encouraged to publish more judgments, when there is a written judgment available.

PILOT SCHEME IN FINANCIAL REMEDY PROCEEDINGS

8. As with the children cases pilot, a pilot scheme will be established in respect of financial remedy cases. It will adopt the recommendations contained within the report of HHJ Farquhar's group. I have asked the National Lead Judge of the FRC, Mr Justice Peel, to be responsible for the implementation of the pilot.

Applicable courts

9. The pilot will encompass cases at the Central Family Court, Birmingham and Leeds. It is envisaged that, in principle, it will be extended to High Court level in the Royal Courts of Justice in November 2024.

Proceedings under the pilot

10. The pilot will encompass the following proceedings:
- a. Applications for financial remedies upon divorce;
 - b. Applications under Schedule 1 of the Children Act 1989;
 - c. Applications under Part III of the Matrimonial and Family Proceedings Act 1984.

Launch date

11. The pilot will launch on 29 January 2024 and will run for a period 12 months. Cases at High Court level in the Royal Courts of Justice shall, in principle, be included in the pilot from 4 November 2024.

Listing

12. Cause lists for all FRC courts, including cases heard at the Royal Courts of Justice, will name the parties and state that the proceedings involve financial remedies.
13. Where the hearing is a FDR, the cause list shall state that no reporter is entitled to attend (FPR 27.11(a)).

Attendance

14. As at present, reporters will be allowed to attend and report on what they see and hear in court, save that they shall not be permitted to attend a FDR. The details of any reporter attending a hearing should appear on the face of the court order.
15. The court retains a discretion to permit attendance by a person who is other than a reporter; FPR 27.11(2)(b). The court also retains a discretion to exclude a reporter under FPR 27.11(3), but this should only be done for specific reasons, and upon consideration of PD27B.
16. Reporters are encouraged to inform the court and the parties in advance of their intention to attend and report on a particular hearing.
17. In principle, reporters shall be entitled to attend any hearing in person, where it is an attended hearing, and if the hearing is remote, the reporter shall be entitled to attend remotely, provided that advance notice is given. For reasons of logistics and court resources, where a hearing is attended in person by the parties, it may not always be feasible for the reporter to join remotely, and reporters should not assume that they will automatically be entitled to do so.

18. A practical guide for judges and professionals in circumstances where a reporter attends, or wants to attend, a hearing is attached at Annexe I.

Transparency Order

19. Where a reporter attends, the court will consider making a standard Transparency Order in accordance with Annexe II. The court retains the discretion to direct that there should be no reporting of the case. The order shall ordinarily be expressed to last “until further order” but the court may consider a specific time limit.
20. A Transparency Order may be made at any stage of proceedings, but it is expected that a Transparency Order will be considered and, if appropriate, made, at the first hearing attended by a reporter.
21. The draft Transparency Order at Annexe II provides that the reporter may publish what is said in court, subject to the restrictions contained in the Transparency Order designed to preserve anonymity and confidentiality. The draft order also provides that witnesses shall not ordinarily be identified, save for expert witnesses.
22. It is anticipated that a judge may decide to make an interim Transparency Order in certain circumstances. Most commonly, this might be at the start of a final hearing, in circumstances where the judge decides to adjourn consideration of the Transparency Order until conclusion of the hearing, and wishes to prohibit any reporting of the case in the meantime. At Annexe III is a draft interim Transparency Order.
23. The court may at any time modify or discharge the terms of the Transparency Order as it considers appropriate. Notice should usually be given of any application to do so.
24. For the avoidance of doubt a Transparency Order does not prevent publication by a party (as opposed to a reporter) of information that they would ordinarily be permitted to publish, if it does not relate to or refer to the proceedings.
25. It is anticipated that in the vast majority of cases where a Transparency Order is contemplated, that will be ancillary to the substantive financial remedy proceedings and such an order can therefore be made by any judge at whatever level of the FRC.

Where, however, publicity is the principal relief sought, the application should be referred to the Family Division; Part B, para 16, of the President’s Guidance May 2021 “Jurisdiction of the Family Court: Allocation of cases within the Family Court to High Court Judge level and transfer of Cases from the Family Court to the High Court.”

Documents

26. The Transparency Order provides for provision of position statements and ES1 to a reporter. The ES2 is not to be provided without permission of the court. It is not envisaged that the position statements and ES1 will be redacted, save that the court may permit redaction if the documents include information prohibited from publication by the Transparency Order, notably information likely to be contained within the ES2, including details of properties, private companies and specific financial instruments.
27. The court retains the power to vary this provision, either by widening the scope of documents to be provided, or by restricting it. The reporter may quote from the documents, provided that any such publication is in accordance with the ambit of reporting permitted under the Transparency Order. If a document is referred to during a hearing, that does not entitle the reporter to see the document without permission of the court. The normal rule in civil proceedings (CPR 1998 r31.22) does not apply to financial remedy cases.

Power of the court to depart from these principles

28. It is open to a judge in any particular case to depart from this guidance to the extent considered appropriate, in accordance with the law and the particular circumstances of the case.

Rubric

29. In the light of the proposed changes, it is envisaged that a new rubric should be included in judgments which are intended to be released publicly. The rubric contains alternative scenarios :
 - a. Where no reporter has attended, and no Transparency Order has been made;

- b. Where a reporter has attended, and a Transparency Order has been made.

A draft rubric is attached at Annexe IV. It is in the alternative, and appropriate deletions/amendments should be made in each given case.

Duties of the parties, professionals and reporters

30. All parties must assist the Court in furthering the Overriding Objective: FPR r.1.3. Parties and advocates are expected to be prepared to address the Court on whether a Transparency Order should be made, and to what extent, at the start of the hearing. Parties and advocates must consider the issue of transparency prior to the hearing. Transparency should form part of the agenda for every pre-hearing discussion.
31. For each hearing, the Court order shall record the name and contact details of any reporter who attended.
32. The reporter must complete form FP301 if a legal blogger, or produce ID at the outset of the hearing if a member of an accredited media organisation.
33. Reporters are bound by the terms of the Transparency Order, relevant statute, rules and guidance, as well as their professional rules and codes of conduct.
34. Reporters are asked to abide by the following:
 - a. To assist the Court in achieving the Overriding Objective in FPR r.1.1., which is to resolve cases justly;
 - b. To minimise disruption to the proceedings, and raise issues in advance of hearings in writing with the Court and the parties, where possible;
 - c. To work constructively with the parties;
 - d. To be sensitive to the feelings and possible vulnerabilities of parties in the court and at all time act with appropriate discretion;
 - e. Not to interfere with pre-hearing discussions;
 - f. If the party has a lawyer, any interview request must be made through that lawyer.

35. Lawyers acting in proceedings may approach the reporters, whether directly or through their press body, on behalf of their clients if so instructed.
36. Lawyers and lay parties are expected to work constructively with pilot reporters.

Application of Guidance to judges of the FRC

37. This Guidance will apply to any level of judge of the Financial Remedies Court. It does not apply to the Court of Appeal (Civil Division), or to appeals to Circuit Judges or High Court Judges which are heard in open court.

Further information

38. Should any legal professional have a query about the pilot, they are invited to send an email to pilots@thetig.org.uk. Emily Ward (barrister) and Henrietta Boyle (barrister) will respond as soon as possible.
39. Should any judge have a query about the pilot, they are invited to contact their local FRC lead judge in the first instance.
40. Training materials and further information will be published on the TIG homepage on the Judiciary website, accessed via our web link: www.thetig.org.uk.

Rt Hon. Sir Andrew McFarlane
President of the Family Division

11 December 2023

ANNEXE I

What to do when a reporter attends (or wants to attend) your hearing

A guidance note for judges & professionals

This guide is designed to assist professionals involved in family court cases to think through issues around the attendance of reporters in those cases. Nothing written here should be treated as legal advice on individual cases or circumstances. The Transparency Project does not give legal advice.

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WHAT TO DO WHEN A REPORTER ATTENDS (OR WANTS TO ATTEND) YOUR HEARING

Firstly, don't panic. Identify the relevant parts of the Family Procedure Rules ('FPR') and applicable statute.

Next, consider the following key principles and then work through the practical points below.

1. Reporters are generally allowed to attend hearings – they do not need to 'apply' or give notice

- a. FPR 27.11 gives a general right of attendance to journalists and legal bloggers to most (but not all) private hearings. Notable exceptions are part 14 (adoption etc) and 153 hearings involving judicially assisted conciliation (or at any rate those parts of hearings involving judicially assisted conciliation) typically FDR or FHDRA hearings.

- b. This right of attendance applies to accredited media representatives (journalists with a press card) and duly authorised lawyers (qualified lawyers attending for journalistic, research or public legal educational purposes – colloquially known as legal bloggers). For convenience the collective term ‘reporters’ is useful to cover both. You should check the credentials of a reporter, unless they are known to the court. A legal blogger should provide form FP301 (this is not required for a journalist).
- c. FPR 27.11(3) defines the limited circumstances in which the court may (of its own motion or on application) exclude a reporter from all or part of a hearing.
- d. If there is an issue with the attendance of a reporter the court should hear briefly what the nature of the objection is, and allow the reporter to respond. The court should consider FPR 27.11(3) in deciding whether to exclude the reporter. FPR 27.11(3) requires something more than the fact that the nature of the proceedings is ‘private’ or that one or more parties would prefer them not to attend. Concerns about potential reporting are not a basis for excluding a reporter from attending. In some cases automatic restraints on publication will apply, in others it may be appropriate for the court to impose them. But a need to restrict publication of information does not necessarily mean a reporter should be excluded from observing.
- e. Although it is obviously helpful if a reporter does give notice that they intend to attend, it is not a requirement. In reality, for various reasons, this will not always be possible. A reporter should not be criticised for not giving notice or ‘sufficient’ notice.

2. What a reporter is permitted to report will depend upon the nature of the hearing / proceedings.

- a. In private Children Act 1989 proceedings, s12 Administration of Justice Act 1960 (‘AJA 1960’) will generally significantly curtail what can be published. A reporter may attend but report very little without the permission of the court. In those cases a reporter may wish to make an application to report, and this is usually best dealt with at the end of the hearing.

- b. NB The President's Reporting Pilot operating from 30 January 2023 in Carlisle, Leeds and Cardiff is an exception to this, in that the court will usually make a Transparency Order in such cases in those courts which reverses the presumption against publication and permits anonymised reporting of most of the detail of such cases.
- c. S97 Children Act 1989 precludes the identification of a child as the subject of proceedings during the life of the case.
- d. In Financial Remedy cases s1 of the Judicial Proceedings (Regulation of Reports) Act 1926 (arguably) applies. There is an apparent divergence of view at High Court level as to whether the implied undertaking of confidentiality arising from the compelled disclosure requirements / duty of full and frank disclosure or the general 'private' nature of hearings precludes the publication of information by reporters (or parties) in circumstances where privacy is attenuated (or destroyed) by the right of attendance by reporters (see Gallagher (No 1) (Reporting Restrictions) [2022] EWFC 52). On one view (per Mostyn J in Gallagher) there is no de facto restriction on the reporting of information gathered / heard by a reporter at a FR hearing, and if there is to be any such restriction it must be the subject of an on notice reporting restriction order application (on notice to the press via the Media Injunctions Alert Service (aka Copydirect). NB, it has recently been suggested that contrary to PD27B and in accordance with A v BBC [2015] AC 588 the media need not be given notice in advance of a contra mundum anonymity order (as opposed to a particular respondent) is not required. However, A v BBC suggests that steps must be taken to ensure the media are aware after the fact that the order has been made (in civil cases the anonymity order is published on judiciary.uk).
- e. Whilst this topic remains controversial, judges may wish to canvas the parties and media/ reporters' positions on these issues at the outset of a hearing attended by the media, in order that a pragmatic and lawful way forward can be found. For example, reporters may not wish to report anything until the conclusion of the hearing, or may be content to agree not to include specific information in their reports, at least for the time being. If necessary and proportionate, the court may make an interim order pending a full Re S

analysis (Re S (A Child) [2004] UKHL 47) at the conclusion of the proceedings / substantive hearing – but whether this is appropriate will depend on the circumstances. Re S applies and judges should have regard to paragraph 17, per Lord Steyn:

‘The interplay between articles 8 and 10 has been illuminated by the opinions in the House of Lords in Campbell v MGN Ltd [2004] 2 WLR 1232. For present 155 purposes the decision of the House on the facts of Campbell and the differences between the majority and the minority are not material. What does, however, emerge clearly from the opinions are four propositions. First, neither article has as such precedence over the other. Secondly, where the values under the two articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justifications for interfering with or restricting each right must be taken into account. Finally, the proportionality test must be applied to each. For convenience I will call this the ultimate balancing test. This is how I will approach the present case.’

- f. By PD30B appeals are presumptively to be heard in public, but may be taken in private. In cases involving children anonymity orders may be made. Subject to any anonymity or reporting restriction order matters referred to in a public appeal (or other) hearing may be reported (s12 AJA will not apply).

3. A reporter should not be asked to reveal their source

- a. A reporter may become aware of or interested in attending a hearing for a number of reasons. It is not appropriate for a judge or legal representative to ask a reporter who told them about the hearing or who invited them to attend. Where a reporter is entitled to attend a hearing they are not required to justify or explain their attendance, and they may decline to respond to such an enquiry. A journalist’s duty of confidentiality and professional code of conduct will usually require them to do so and legal bloggers attending for a journalistic purpose are likely to hold to similar standards. Reporters should not be placed under pressure to reveal sources or criticised for not doing so.

- b. Judges and legal professionals should remember that journalists attending a family court hearing are outsiders and such requests may have a ‘chilling’ or intimidating effect upon reporters.

4. Editorial control of reporting is no part of the court’s function

- a. The court should not engage in enquiries that amount to editorial control or approval or disapproval of proposed journalistic material. Providing material is lawfully obtained and lawfully reported a reporter / publisher is at liberty to publish on their own terms. Such reporting may contain material that a party would prefer not to be included, it may exclude material a party considers highly relevant, it may offer comment or opinion that is contrary to the view of the court or the parties. Concern that any of these things may happen is neither a proper basis upon which to exclude a reporter from a hearing nor to restrict reporting which would otherwise be permitted. The court should have regard to Re S in considering whether to relax or restrict any existing constraint on reporting in the individual case. This will usually involve close scrutiny of any competing Article 8 or 10 ECHR rights, analysis of the specific facts of the case and any arguments about public interest, privacy, welfare etc and a careful balancing of those factors to reach a conclusion which interferes with each of those rights only insofar as is necessary and proportionate.
- b. It is not appropriate for the court or parties to require or request sight of a proposed report prior to publication for approval. Most journalists will refuse this as contrary to their journalistic independence.

5. Communication is key

Reporters may in some respects be the outsiders in the room (though a small number have made attendance at Family Court hearings their speciality), but they are generally skilled at thinking creatively about how the balance between privacy and public interest in the reporting of court proceedings can lawfully be achieved. If lawyers and judges engage reporters in discussions / submissions about these issues reporters may come up with a pragmatic proposal that will enable matters to move forwards on an agreed basis, or at least to narrow the issues. What a journalist wants and needs to report will depend upon whether they are a news journalist or are

carrying out broader investigative or long form journalism work. What a legal blogger wants and needs to report will differ again.

6. A reporter will need to be able to share information with their editorial team

Any reporter (unless self-publishing) will need to be able to share sufficient information with their editorial and any in house legal team in order to facilitate publication, and to ensure that publication is in compliance with the law and any court orders. Most reporters will assume this is permitted. It is probably helpful to make it explicit to avoid any confusion.

7. Practical steps:

(NB some of these steps may not be applicable or may need some adjustment in Reporting Pilot cases)

Before the hearing (if it is known a reporter is attending) –

- Court to let the parties and their legal representatives know that a reporter is intending to attend
- Court to make arrangements for the reporter to be provided with a link (see Practice Guidance Issued by the LCJ in June 2022 “Open Justice – Remote Observation of Hearings – New Powers”, which sets out that ‘Remote observation should be allowed if and to the extent it is in the interests of justice; it should not be allowed to jeopardise the administration of justice in the case before the court’, and makes clear that this may include remote attendance by a reporter of an otherwise fully attended hearing).
- Check reporter’s credentials – for journalists this is a UK press card; for legal bloggers practising certificate or letter from their academic institution or Registered Educational Charity such as The Transparency Project, and form FP301.
- Check the hearing is one which reporters are permitted to attend (FPR 27.11)
- Consider whether a reporter should be provided with key documents to aid understanding (on terms) – e.g. case outline, ES1, skeleton argument, etc, and

if so on what terms (see for e.g. President's Guidance: Attendance of the Media [2009] 2 FLR 167 “Where a representative of the media in attendance at the proceedings applies to be shown court documents, the court should seek the consent of the parties to such representative being permitted (subject to appropriate conditions as to anonymity and restrictions upon onward disclosure) to see such summaries, position statements and other documents as appear reasonably necessary to a broad understanding of the issues in the case”, and Newman v Southampton City Council & Ors [2021] EWCA Civ 437 in which it was confirmed that the Re S exercise should be utilised in connection with issues relating to reporters’ access to documents.

At the outset of the hearing –

- Deal with any objections to attendance in the presence of the reporter (brief submissions from parties with reference to 27.11(3), with an opportunity to the reporter to respond)
- If not already done, consider whether a reporter should be provided with key documents to aid understanding– e.g. case outline, ES1, skeleton argument, etc. Documents can be provided on terms such as no further distribution / publication pending further order, no reporting of identifying details etc as appropriate.
- Canvas any potential issues regarding reporting – ensure all parties and reporters are on the same page in terms of what can be reported (in a Reporting Pilot case ensure all have the pilot guidance and deal with the terms of the Transparency Order)
- Consider setting time aside at the end of the hearing to deal with such issues. Many reporters will invite the court to deal with this at the end of the hearing when they understand more about the case and can make more informed proposals as to what should and should not be reportable and what (if anything) could be justifiably withheld in order to facilitate the reporting of more editorially important facts (e.g. in a children case a reporter may make sensible concessions / suggestions about specific facts that might be identifying but which are not journalistically essential).

- Remember to deal with any issues / set ground rules about live reporting if requested and permitted / reporting of an ongoing hearing.
- In an FR case where it is clear a reporter will wish to report and a party objects to that the court will need to decide whether an on-notice Transparency Order application is necessary / appropriate (depending on its interpretation of the law) and if so how to deal with matters in the interim. It may be appropriate to refer the case to the Lead FR Judge (see Peel J guidance ‘Financial Remedies Court Practice Guidance, 13 May 2022’).

At the end of the hearing –

- Check back in to see if the reporter wishes to make an oral application for permission to report (if required) or if a party wishes to make representations. In most cases this can be dealt with by brief oral submissions. If not consider adjourning to another hearing, in complex cases this may need to be adjourned to a High Court Judge (See PD27B and President of the Family Division’s Reporting Guidance 2018). NB This guidance implicitly relates primarily to children cases, but may nonetheless contain useful pointers for financial remedies cases. It is likely to be revised as part of the work of the President’s Transparency Implementation Group.
- Ensure that any order regarding reporting (permissive or restrictive, or in a pilot case a Transparency Order) is drawn clearly and provided to the reporter. The reporter should be copied into the draft order before approval to ensure that all are in agreement that the drafting corresponds with what was ordered by the court / conceded by the reporter.
- Make arrangements for the reporter to be able to communicate with a point of contact about next hearing / hand down of any judgment (whether the court or a legal representative).
- If you are directing that documents should be shared with a reporter ensure this is reduced to writing and a date for compliance by the party is provided.

ANNEXE II: DRAFT FINAL TRANSPARENCY ORDER



In the Family Court
sitting at **[Court name]**

Case No: **[Case number]**

[The Matrimonial Causes Act 1973] /

[The Matrimonial and Family Proceedings Act 1984 and Schedule 7 to the Civil Partnership Act 2004] /

[The Civil Partnership Act 2004] /

[Schedule 1 of the Children Act 1989]

(ADAPT AS NECESSARY)

The **[Marriage] / [Civil Partnership] / [Relationship]** of **[applicant name]** and **[respondent name]**

After hearing **[name the advocate(s) who appeared]**

After consideration of the documents lodged by the parties

TRANSPARENCY ORDER MADE BY [NAME OF JUDGE] ON [DATE] SITTING IN PRIVATE

WARNING: IF YOU DO NOT COMPLY WITH THIS ORDER, YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND YOU MAY BE SENT TO PRISON, BE FINED, OR HAVE YOUR ASSETS SEIZED.

The parties

1. The applicant is *[applicant name]*
The respondent is *[respondent name]*
[The second respondent is [respondent name]]
[The third [etc] respondent is [respondent name]]
[The intervener is [intervener name]]

Attendance of reporters

2. The following reporters attended:
[names and contact emails]

Notice and Definitions:

3. This order is an injunction, which means that you must do what the order says.
4. This order applies to any person who is aware of its contents.
5. In this order, "reporters" means duly accredited representatives of news gathering and reporting organisations and duly authorised lawyers attending for journalistic, research or public legal educational purposes (legal bloggers) (together referred to in this order as 'a reporter') who are entitled to attend a hearing under r.27.11 of the Family Procedure Rules 2010 ('FPR').

Who does this order apply to?

6. The Order applies to:
 - a. The parties and their lawyers;
 - b. Any witnesses in the case;
 - c. Anybody who attends some or all of a hearing in the case;
 - d. Anybody who is served with a copy of this order or is aware of its contents.
7. This Order will be served on the parties and their lawyers, and any reporter who attends a hearing and wishes to report on what they see, read, or hear.

It is ordered that:

8. This Order will remain in force until further order, but the duration will be kept under review by the court at each hearing.

What may and may not be published?

9. A reporter may publish any information relating to the proceedings save to the degree restricted below.
10. No person may publish any information relating to the proceedings to the public or a section of it, which includes:
 - a. The names and addresses of the parties (including any intervenors) and their children and any photographs of them;
 - b. The identity of any school attended by a child of the family;
 - c. The identity of the employers, the name of the business or the place of work of any of the parties;
 - d. The address of any real property owned by the parties;
 - e. The identity of any account or investment held by the parties;
 - f. The identity of any private company or partnership in which any party has an interest;
 - g. The name and address of any witness or of any other person referred to in the hearing save for an expert witness.

Documents

11. A reporter who attends a hearing in financial remedy proceedings in accordance with FPR r.27.11, or who indicates in advance that they wish to attend a hearing, is entitled to see the position statement of each party and the Form ES1.
12. Parties to the proceedings and their representatives may not disclose documents from the proceedings to reporters, except as specified above, or with the specific permission of the court. This includes where a document is referred to or quoted from in court that the reporter would not otherwise have access to.

13. Any requests for copy documents referred to at paragraph 11 above must be made at or before a hearing which the reporter has attended pursuant to FPR r.27.11.
 - a. Upon a request being made, the author of the document shall as soon as practicable provide a copy of the document to the reporter.
 - b. The reporter may quote from or publish the contents of the document, save that the details at paragraph 10 of this Order may not be published. Where any document referred to above quotes from a document to which the reporter would not be entitled to see (such as source evidence), the passage quoted may not be reproduced or reported without permission of the court.
14. No other document may be provided to a reporter without permission of the court.
15. A reporter may share documents or information with their editorial team or legal advisor responsible for the publication of their proposed report of the case, providing that they also provide any such person with a copy of this order which will be binding upon that editorial team or legal advisor.
16. Any documents provided to a reporter pursuant to this Order
 - a. Must not be shown or provided to any other person save as permitted by paragraph 15 above.
 - b. Must be held securely and confidentially by the reporter.
 - c. Must be kept for no longer than is necessary whereupon it must be securely destroyed or deleted.

Other Orders

17. Permission for this Order to be served by email. Email shall be effective service for the purposes of FPR Part 6 and FPR Part 37.

18. Liberty to the parties and any reporter to apply on notice to vary or discharge this Order. Any application to vary or discharge this Order should be made by way of D11 application.

Dated, etc.

ANNEXE III: DRAFT INTERIM TRANSPARENCY ORDER



In the Family Court
sitting at **[Court name]**

Case No: **[Case number]**

[The Matrimonial Causes Act 1973] /

[The Matrimonial and Family Proceedings Act 1984 and Schedule 7 to the Civil Partnership Act 2004] /

[The Civil Partnership Act 2004] /

[Schedule 1 of the Children Act 1989]

(ADAPT AS NECESSARY)

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After hearing **[name the advocate(s) who appeared]**

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TRANSPARENCY ORDER MADE BY [NAME OF JUDGE] ON [DATE] SITTING IN PRIVATE

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[The intervener is [intervener name]]

Attendance of reporters

2. The following reporters attended:
[names and contact emails]

Notice and Definitions:

3. This order is an injunction, which means that you must do what the order says.
4. This order applies to any person who is aware of its contents.
5. In this order, "reporters" means duly accredited representatives of news gathering and reporting organisations and duly authorised lawyers attending for journalistic, research or public legal educational purposes (legal bloggers) (together referred to in this order as 'a reporter') who are entitled to attend a hearing under r.27.11 of the Family Procedure Rules 2010 ('FPR').

Who does this order apply to?

6. The Order applies to:
 - e. The parties and their lawyers;
 - f. Any witnesses in the case;
 - g. Anybody who attends some or all of a hearing in the case;
 - h. Anybody who is served with a copy of this order or is aware of its contents.
7. This Order will be served on the parties and their lawyers, and any reporter who attends a hearing and wishes to report on what they see, read, or hear.

It is ordered that:

8. This interim Transparency Order will remain in force until [further order/the conclusion of the proceedings/, a specified date: **DELETE/AMEND AS APPROPRIATE**] when consideration will be given as to whether to make a final Transparency Order, and if so, on what terms.

What may and may not be published?

9. A reporter may not publish any information relating to the proceedings, including the names and addresses of the parties and their children, until consideration of a final Transparency Order under paragraph 8 above.

Documents

10. A reporter who attends a hearing in financial remedy proceedings in accordance with FPR r.27.11, or who indicates in advance that they wish to attend a hearing, is entitled to see the position statement of each party and the Form ES1.
11. Parties to the proceedings and their representatives may not disclose documents from the proceedings to reporters, except as specified above, or with the specific permission of the court. This includes where a document is referred to or quoted from in court that the reporter would not otherwise have access to.
12. Any requests for copy documents referred to at paragraph 11 above must be made at or before a hearing which the reporter has attended pursuant to FPR r.27.11.
 - a. Upon a request being made, the author of the document shall as soon as practicable provide a copy of the document to the reporter.
 - b. The reporter may quote from or publish the contents of the document, save that the details at paragraph 10 of this Order may not be published. Where any document referred to above quotes from a document to which the reporter would not be entitled to see (such as source evidence), the passage quoted may not be reproduced or reported without permission of the court.

13. No other document may be provided to a reporter without permission of the court.
14. A reporter may share documents or information with their editorial team or legal advisor responsible for the publication of their proposed report of the case, providing that they also provide any such person with a copy of this order which will be binding upon that editorial team or legal advisor.
15. Any documents provided to a reporter pursuant to this Order
 - a. Must not be shown or provided to any other person save as permitted by paragraph 15 above.
 - b. Must be held securely and confidentially by the reporter.
 - c. Must be kept for no longer than is necessary whereupon it must be securely destroyed or deleted.

Other Orders

16. Permission for this Order to be served by email. Email shall be effective service for the purposes of FPR Part 6 and FPR Part 37.
17. Liberty to the parties and any reporter to apply on notice to vary or discharge this Order. Any application to vary or discharge this Order should be made by way of D11 application.

Dated, etc.

ANNEXE IV: Rubric

Draft Judgment Rubric where the judgment is published

“This matter was heard in private. The judge gives permission for this version of the judgment to be published. In no report of, or commentary on, the proceedings or this judgment may the parties or their children or their addresses be identified. *[In this case a Transparency Order has been made on -- -- which continues in effect]*. All persons, including representatives of the media and legal bloggers must ensure that the terms of this rubric *[and the terms of the Transparency Order]*, are strictly observed. Failure to do so may be a contempt of court.” **[Adapt as appropriate]**