



JUDICIARY OF
ENGLAND AND WALES

The Family Justice Modernisation Programme

Implementation Update Number Two

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Introduction

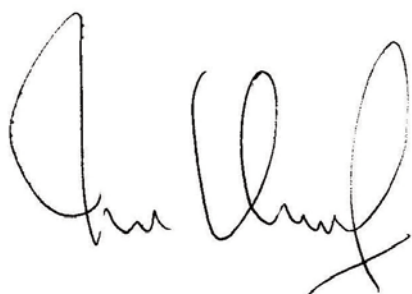
By Sir James Munby, President of the Family Division

I am pleased to introduce the second of the Implementation Updates on the work being carried out by the Judicial Family Justice Modernisation Programme. By the time of publication, I will have been in post for just over a month. Although new to the post of President of the Family Division, I have maintained a great interest in the work of the Family Justice Review and the work led by Mr Justice Ryder in relation to the judicially led modernisation programme. I am wholly supportive of this project.

Despite this earlier interest, in this month I have been surprised by the pace and extent of the proposed reforms, the careful and skilled management of them and above all the dedication and determination of all those involved to carry them out. One of the key themes throughout the review was the need for all parts of the system to work together as a coherent whole. While this cannot be achieved overnight, it is beginning to happen and we have already seen a reduction in the time taken to complete care cases from 60 weeks, at the time the Family Justice Review reported in November 2011, to the latest published figure of 47.7 weeks.

By April 2013, we should have a clearer picture of the new statutory landscape and a year's transitional period will follow until full implementation in April 2014. This time will pass very quickly and is likely to be one of continuous change as various parts of the reform are brought into existence. During this period, I will visit all circuits and meet those involved in all aspects of the family justice system. I look forward to meeting and listening to everyone's views and will make efforts to ensure everyone hears from me the vision we have for a single family court.

We have to recognise that we are operating in a time of scarce and diminishing resource and that we have to make the best of what is available to us. The modernisation programme is I believe an example of marshalling resources and of taking up the challenge facing all of us in the family justice system. Given the magnitude of the programme, I am very pleased that the Lord Chief Justice has agreed that Mr Justice Ryder will continue in his role as Head of the Modernisation of Family Justice until Easter 2013.



| Update

The Single Family Court (SFC)

Following a workshop of agencies concerned in the administration of the court convened by HMCTS and the judiciary, a blueprint for how the SFC will work in practice has been approved by the HMCTS Board. The blueprint has been circulated to Designated Family Judges (DFJs) and Justices' Clerks.

It should be understood that the document governs the operational aspects of the court, concentrating on the processes governing how work will progress through the court. It is predicated on the understanding that work will come into the court through one entry point per court centre and then be allocated to the appropriate level of judiciary at the most suitable venue within the management of the court centre. The blueprint is a working document, and will therefore be subject to continuing development as it is tested on the ground.

At this stage, the blueprint does NOT deal with the policy/legal issues governing how the work is to be allocated. This detail is being closely considered as a matter of priority by all concerned, with the benefit of representations from all in the judicial system. Once decisions have been made, they will be brought to your attention. Guidance on issues such as this will be available at least in draft form for the training courses mentioned below.

Detailed consideration of individual aspects of the SFC will continue in the Family Business Authority (a sub-committee of the HMCTS Board which has membership drawn from the family judiciary, HMCTS and Judicial Office).

Meanwhile, the President and Kevin Sadler (Director of Civil Family and Tribunals HMCTS) have encouraged the Designated Family Judges, who will be responsible for managing the workload in the single family court and the Justices' Clerks, Tier 4 and Tier 3 legal advisers (who will maintain responsibility for the magistrates) to begin local discussions about how they will work together to determine practical arrangements to come together to implement the single family court.

The Children and Families Bill

The House of Commons Justice Committee published its report into the pre-legislative scrutiny of the Children and Families Bill on 14th December 2012

(<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmjust/739/73902.htm>).

The Bill was introduced on 4th February 2013. The President is continuing positive discussions through the Family Procedure Rules Committee regarding practical implications of change.

It is the government's intention that the Bill and consequential changes will progress sufficiently quickly to allow the key practical changes it introduces to the way courts deal with family cases to be implemented at the same time as the introduction of the Single Family Court by the Crime and Courts Bill in April 2014.

One of the key clauses in this Bill is that care or supervision orders should be determined without delay and in any event within 26 weeks beginning with the day on which the application was issued.

Although this 26-week time-limit will not be a legal requirement until the Act is enacted (probably in April 2014) the President is keen to encourage those involved in the family justice system to continue to use the interim period before implementation to develop their practices to prepare for commencement. Cases should be managed by judges to reach a just conclusion without unnecessary delay.

Courts already have an obligation to timetable each case and the timetable for the child may anticipate proceedings being completed in up to 26 weeks or more dependent on the facts of the case. That is why the Care Monitoring System (CMS) records the timetable for the child which is set by the court. Data will continue to be collected so that we obtain a better understanding of the duration of cases and the reasons for delay.

The CMS has been piloted across the courts since the beginning of April 2012. As it has been used, HMCTS and the judiciary have worked closely to monitor how it is operating and it has developed over this time. The final version will be in place from the beginning of April this year. Guidance on the collection of data will be published soon. This will be brought to the attention of the professions and court staff as well as the judiciary, as it is vital that all understand how the data is recorded and play their part in ensuring that it accurately reflects reasons for unexpected delay and information regarding requests for expert witnesses to be instructed.

Judicial Training

Training for the judiciary began in December 2012 with leadership and management training for all Family Division Liaison Judges and Designated Family Judges. An essential element of that training was looking at how to build relationships in the new single court, especially with the lay magistracy and the legal advisers within that court. The President is clear that they will continue to play a very important part in the single family court. The training was well received and included a presentation and discussion with judicial members and the administration from the Family Proceedings Courts, an explanation and hands-on testing of the value of CMS, and a presentation by the Head of Human Resources for the Judiciary of the support available to them as Leaders and Managers of their judicial colleagues.

The next training in the modernisation programme will be at the President's conference in April 2013, and training events will follow in April and June for around 600 members of the family judiciary who hear care cases including key legal advisers who will cascade it to legal adviser colleagues and magistrates by the end of 2013.

The President continues to press for a commitment to provide resources for multi-disciplinary training to be delivered locally, which will be shaped round the same course material used for the National Training.

The Children's Improvement Board (the good practice body for Local Authority children's services), together with Research in Practice, are running a series of training seminars to local authorities between January and March 2013. The seminars will focus on the family justice reforms and the practical skills social workers need to progress public laws cases efficiently and without delay.

Experts in the family courts

Important new rules and Practice Directions in Part 25 concerning the instruction of experts in the family courts came into force on 31 January 2013. These can be found at: <http://www.judiciary.gov.uk/publications-and-reports/practice-directions/pd-family-division/2012/family-division-procedure-rules-2010-practice-directions-amendments-consolidated-04112012>.

On 22 January 2013, the President handed down a judgment [Re TG (A Child) [2013] EWCA Civ 5] which in addition to dealing with the question of biomechanical evidence in child injury cases (paras 39-44, 67-68), dealt with a number of general issues in relation to case management (paras 24-38), experts (paras 29-34; nb para 30 referring to the new rules), the role of the Court of Appeal (paras 35-38) and unnecessary representation (paras 70-77). The judgment can be found at: <http://www.judiciary.gov.uk/media/judgments/2013/in-the-matter-of-tg-child-judgment>. It is highly recommended reading.

The Family Courts Guide

The Family Courts Guide will be a framework of good practice which will set out presidential guidance for the judiciary (pathways) on how to deal with public and private law cases. It will be an on-line publication. The pathways will have links to

- The legislative framework
- Peer-reviewed research
- Other guidance and Protocols. For example from the Official Solicitor, National Association of Child Contact Centres, Achieving Best Evidence, Special measures in children cases and police disclosure.
- Expectations documents prepared by the agencies (Local Authorities, Cafcass, LSC/LAA, HMCTS) and approved by the Family Justice Board and the President. These documents will be concise and specific regarding the service they will provide during court proceedings and will themselves cross refer to the regulatory framework and guidance governing their operations. The expectations documents will be governed by an overarching agreement which will be a statement of understanding agreed between the President and the Family Justice Board on how these expectations documents will be employed in public and private law proceedings involving children.

Defaults by parties from the expected standards which result in delay in public law cases will be recorded on the care monitoring system to ensure continuing scrutiny of performance.

Consultation on the content and form of the expectations documents will run for a brief period commencing from early February 2013. Further details of the consultation can be found on the Family Justice Board website.

It is anticipated that the expectations documents will be published within the virtual family court guide in April 2013.

Miscellaneous

The President issued a new Practice Direction in relation to Adults who may become protected parties and children who may become protected parties in Family Proceedings. The practice direction can be found at:

<http://www.judiciary.gov.uk/publications-and-reports/practice-directions/pd-family-division/2013/protected-parties-family-proceedings-practice-direction-jan-2013>