



JUDICIARY OF
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The Family Justice Modernisation Programme

Implementation Update Number Three

July 2013

Introduction

By Sir James Munby, President of the Family Division

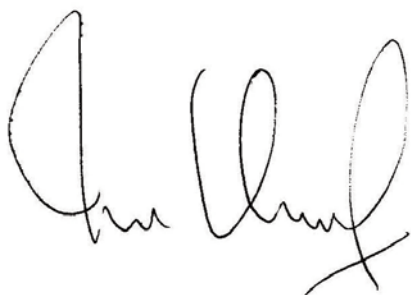
Since the last bulletin in February, great progress has been made in relation to the Family Justice Modernisation Programme. Amongst other things, developments include the issuing of a practice direction piloting a revised Public Law Outline in operation from 1 July 2013; the establishment of evaluation arrangements for the pilot; agreeing operating principles for the single Family Court, and commencing the local planning and implementation around these principles. All of this has been achieved through enthusiasm and collaboration between everyone involved in the family justice system and a determination to make a reality of reforms which have been eagerly embraced.

It is with this enthusiasm and dedication in mind that we must look towards what needs to be achieved in the next 12 months. We have now commenced a year long countdown to the introduction of the single Family Court when it is scheduled to be brought in by the changes under the Children and Families Bill and the forthcoming year will be one of transition, preparation and increased collaboration as we move towards April 2014.

As many of you will have heard me say at meetings and on my visits round the family court centres, I do not expect these changes to be implemented with a 'big bang' approach on 1 April 2014 and I expect all courts to be working towards achieving resolution of care and supervision cases within 26 weeks in advance of the legislation commencing.

I am aware that a large amount of information and guidance has been circulated by my office and HMCTS and through the Local Family Justice Boards in the last few months, all of which has been necessary to get the pilot and the single Family Court models underway. However, I am now conscious that local areas now need time to implement these changes and I will endeavour to keep communications to a minimum. I will continue to publish my monthly update, 'The View from the President's Chambers'. These can be read at: <http://www.judiciary.gov.uk/publications-and-reports/reports/family/view-from-presidents-chambers>

You will all have seen by now the welcome news that Ernest Ryder has received a well-deserved promotion to the Court of Appeal. At present, I do not intend to appoint anyone to replace Ernest as Judge in Charge of the Modernisation of Family Justice. However, the Family Modernisation Team led by Penny Langdon will continue and any queries or questions should be directed to Penny or her team (details to be found on page 6).



| Update

The single Family Court (sFC)

In May, the President and HMCTS wrote to Family Division Liaison Judges (FDLJs) and Designated Family Judges (DFJs) asking them to work in partnership with Justices' Clerks and their deputies, and their HMCTS heads of Civil, Family and Tribunals administration to plan local implementation of the single Family Court in accordance with the agreed set of operating principles. These plans have now been approved and local implementation is underway in many areas.

The returns were very positive and demonstrated an enthusiasm and appreciation of the sFC principles. There were a number of recurring issues that emerged, which will be addressed over the next 6-12 months (eg putting in single points of entry for private law, operating single listing systems across all hearing centres, legal advisers being based at Designated Family Centres (DFCs), flexibility to enable magistrates to sit at the DFC). Others will require consideration over a longer period of time (eg the limitations of the estate to enable all tiers of judiciary to sit at the DFC). The President and his office will be working closely with HMCTS during the implementation phase to identify, where possible, potential solutions to these issues.

The three key features of the local single Family Court are that:

- (1) There will be one central location – the Designated Family Centre – where the Designated Family Judge will be based and which will be the principal location at which hearings take place. There may be one or more Hearing Centres attached to the Designated Family Centre at which hearings can also take place.
- (2) There will be a 'single point of entry', located at the Designated Family Centre, for the issue of process for the entire local single Family Court.
- (3) There will be a centralised and unified administration, principally based at the Designated Family Centre, for the entire local single Family Court. The key elements of this will be:
 - (a) a centralised 'back office';
 - (b) a centralised 'gate-keeping and allocation team' consisting of a legal adviser (justices' clerk) and a District Judge: every new case will on receipt be allocated by the team, (i) to the appropriate level of judge (judge for this purpose including Magistrate) and (ii) to the appropriate Hearing Centre if the case is not to be heard at the Designated Family Centre;
 - (c) centralised listing: a single listing system covering all judges and all cases, whether listed at the Designated Family Centre or at a Hearing Centre.

The principles in (2) and (3) will be subject to local variation where circumstances require (for example, ensuring arrangements are in place for emergency hearings and for convenient issue of applications to be 'fed' to the centralised administration), so long as the basic principles of the 'single point of entry' and a centralised and unified administration for the entire local single Family Court are not compromised.

The single Family Court operating model is not a precursor to the potential closure of any hearing locations; however regions will assess whether resources will need to be moved within the region to organise the single Family Court structure.

Revised Public Law Outline (PLO)

Interim adjustments have been made to the rules and practice directions governing the case management of public law children's proceedings. The adjustments have been made at this stage so that courts and others in the family justice system can begin to manage these cases as efficiently and speedily as is fair and just, and work towards their completion within 26 weeks, in advance of the legislation requiring this, rather than simply waiting for the 26 weeks limit to be imposed in a 'big-bang' style when the legislation comes into effect in April 2014. The revised PLO was signed off at the end of May and came into force from 1 July 2013. The Part 36 Practice Direction introducing the changes and the Annex setting out the revised PLO can be found at: <http://www.judiciary.gov.uk/publications-and-reports/FamilyCourtGuide/PublicLaw/>

Local Family Justice Boards (LFJBs) were asked to lead the discussions to agree when each area intends to implement the PLO and all areas have now submitted their plans as to when the Pilot will commence in their area. There are four possible dates for implementation – 1 July; 5 August; 2 September; or 7 October, with 16 areas having opted to get the pilot underway from 1 July. The list of courts choosing to start operating the Pilot Scheme from 1 July 2013 may be found at: <http://www.justice.gov.uk/downloads/protecting-the-vulnerable/care-proceeding-reform/participating-courts-list.pdf>

Courts joining the Pilot Scheme after 1 July will be added to this list not less than 7 working days before the relevant start date.

The revised PLO has been designed to:

1. Reduce Local Authority paperwork to be filed with the court on issue to that which is essential to the court
2. Give time for the Children's Guardian and the Parents' representatives to consider the LA case and prepare their case analysis/response in time for an effective first hearing where the court will begin to manage and plan the proceedings.
3. Focus on issue identification from the outset, with the First Appointment presently listed by day 6 being replaced by a Case Management Hearing by day 12 and a Second Case Management Hearing to take place only if necessary and no later than in week 4 (the CMC at present no later than day 45 will go)
4. Encourage early resolution of issues, with the IRH being listed as directed by the court, in accordance with the timetable for the proceedings (not, as presently at between 16 and 25 weeks) and the Case Management Judge identifying at the IRH which issues can then be resolved or narrowed.

In advance of the legislation creating a single Family Court, the President has issued Allocation and Gatekeeping guidance to ensure that, as far as possible, public law children cases are allocated to the correct level of judiciary as they are issued, rather than at the first hearing or later in the proceedings. In most cases, the existing legislation requires these applications to be made in the magistrates' courts. Local authorities will now be required to provide sufficient information in prescribed form on application to enable a gatekeeping team consisting of a specialist legal adviser and a county court district judge to determine both the location and the level of judge where the case should be listed and case managed. The present legislation allows cases only to move through the tiers of court one level at a time and so the

guidance provides that the Designated Family Judge or a nominated deputy be available to make the appropriate order when the gatekeeping team identifies a case where this is necessary. These interim arrangements are being piloted from July and will be reviewed in advance of and help in the design of statutory instruments supporting the single Family Court from April 2014.

The revised PLO is further supported by President's Guidance on Judicial Continuity and Deployment and the Use of Prescribed Documents. The Prescribed Documents entail an Allocation Proposal Form, Standard Directions on Issue and Allocation and a Case Management Order. The new Case Management Order (CMO) must be used in all cases from 1 July irrespective of whether the PLO is yet implemented locally as the information is needed to update the Care Monitoring System (see below).

Ipsos MORI has been commissioned to evaluate these interim arrangements. With the assistance of the Ministry of Justice, they will set up workshops with Local Family Justice Boards in eight areas based on a range of short, mid-range and longer case duration figures across England and Wales (using the latest data). The workshops will be interactive and focus on providing in depth operational and practical feedback on the fine detail of the changes that have been made.

A mixture of focus groups and interviews with a range of family justice practitioners located in the same eight Local Family Justice Board areas will be held. Participants will include judges, magistrates, lawyers, (both private practice and LA lawyers), Family Legal Advisors, Regional Deputy Justice Clerks, representatives from Cafcass/Cafcass Cymru and Local Authorities (Directors of Children's Services/Heads of Children's Services), social workers, Independent Reviewing Officers and Experts.

In addition, those areas not selected for the focus groups will also be able to contribute their views through a short questionnaire. The questionnaire will seek to mirror the type of questions which researchers will ask as part of the main evaluation. Details of this web-based questionnaire will be sent via LFJBs.

Should you wish to provide feedback on any of the supporting documentation, please contact one of the family modernisation team (details below).

The Judicial College has completed its training of 600 judges and lead legal advisers on 7 June 2013. The legal advisers have been trained as trainers and will be supported by the Judicial College to ensure all family magistrates are trained on the changes by the end of the year. Training is being arranged for individual parts of the Family Justice System and it is understood that central funds have been made available for the Local Family Justice Boards to provide multi-disciplinary events locally.

Once again, the Family Modernisation Team is grateful to the Faster Family Justice Group organised by the Law Society, who have hosted several meetings of representatives of the many agencies and practitioners who will all be required to play their part in implementing the revised PLO in due course. These representatives have helped develop materials and have undertaken to help us to keep their members up to speed with developments.

Care Monitoring System

Following a year of testing and revision, the final version of the Care Monitoring System has been in use from 1 April 2013. When care files are opened, courts complete a case set up form, information from which will be transposed onto the court IT system. As cases progress, judges/legal advisers will be responsible for completing a standard form which will be part of the Case Management Order recording the stage of the proceedings, any change in, and reasons for, the timetable for the child(ren), reasons for adjournments and requests for experts. It is essential that the information is recorded accurately as it will be used by the courts to assist in managing their caseload and by the local and national

Family Justice Boards to identify and address any systemic causes of delay in care cases. It is vital that the CMO is completed and is finalised as soon after the completion of the hearing, if not on the day itself.

On 1 July 2013 the reasons for a case to be changed from the standard to exceptional track were also revised. On 7 October 2013 CMS will be updated to reflect all the headings contained in the new PLO so relevant and accurate information can be recorded in line with the appropriate stage of the proceedings. This will not require any change to the existing CMO which will remain in place at least until the new legislation in April 2014.

The Family Court Guide

The Family Court Guide webpage was launched on 3 July. This has been designed to assist those involved in the Family Justice System during the transitional year. The webpages are publicly available and include links to legislation, practice directions and relevant Guidance, including those referred to above. The Family Court Guide can be found through the following link: <http://www.judiciary.gov.uk/publications-and-reports/FamilyCourtGuide>

Private Law

The reforms currently taking place have largely focused on changes to public law cases. However, the President is fully aware that the processes in private law also need addressing and plans to reconstitute the Private Law Working Group to begin examining these issues.

Following the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) on 1 April 2013, the impact of the removal of legal aid in private law cases is being closely monitored, both by the President's Office and HMCTS. A number of mitigating actions have already been put in place by HMCTS, including: a review of the top ten family help leaflets, which have been improved and simplified and given the Plain English crystal mark; a new CB7 leaflet for family litigants in person:

http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=2756; additional financial and logistical assistance to the Personal Support Unit to help them open new PSU offices in Bristol and Leeds; and a mediation video explaining what mediation is, how it works, and its benefits:

https://www.youtube.com/playlist?list=PL5g5tPp-sxrjOlwV_7gA0yELB1gw2TpW1

Further information

Should you have any further queries and questions, please contact one of the Judicial Family Modernisation Team below:

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