VIEW FROM THE PRESIDENT'S CHAMBERS (10)

The process of reform: the beginning of the future

Sir James Munby, President of the Family Division

We are rapidly approaching the date for formal implementation of the family justice reforms. Subject to timely completion of the Parliamentary process in relation to the Children and Families Bill, it is planned to introduce the reforms on 22 April 2014. Accordingly, if everything remains on schedule 22 April 2014 will see the creation of the new single Family Court, the implementation of the final version of the revised PLO in public law cases (PLO 2014) and the implementation in private law cases of the Child Arrangements Programme (CAP 2014).

When I became President I set myself the challenge of visiting every care centre by the end of last year. I failed in that task. But by the time you read this I will be on the final lap, my only outstanding visits being to Oxford, Stoke, Worcester, Cambridge and, last but not least, Norwich. All will have been completed before the new Family Court opens its doors. I have found these visits exhilarating and uplifting. I am immensely grateful to all of you who have made them so enjoyable and so useful. I hope in due course to return to sit in as many places as possible – and not just places where judges of the Division are accustomed to sit. This part of the process begins in late March when I shall be sitting for a week in Bournemouth.

The Family Court

In large measure the new Family Court is already up and running for most practical purposes. Behind the scenes there is much on-going work on all the rule changes needed to get the Family Court fully established. Much of this, though important, is technical and consequential, so I can pass over it in merciful silence.

In some places – not as many as I would wish, though financial resources for such works are limited – work is going on in finding space in existing buildings which can

be adapted for additional courts or hearing rooms. This is particularly important where the consequence is that magistrates will for the first time be able to sit in the same building as their professional judicial colleagues – something which is very important if we are to make a reality of the Family Court.

The most visible changes in April 2014 will be in London. The vision for London which I described in an earlier 'View' ([2013] Fam Law 1137) is about to become a reality. The works at First Avenue House – the home for the new Central Family Court – are on schedule, as is the move from Wells Street. All will be ready by 22 April 2014. The DFJs for the new East London Family Court and West London Family Court, Her Honour Judge Carol Atkinson and Her Honour Judge Judith Rowe QC, have been appointed and are busy planning their new courts. The other judges who will be sitting in their courts have been selected. The West London Family Court will be based at Hatton Cross as the Designated Family Centre. It will open for business in April. Things there are going smoothly. The same, unhappily, cannot be said for the East London Family Court. Late in the day, and in circumstances that have still not been fully explained to me, though I am determined to get to the bottom of what happened, it emerged that the landlord of the preferred premises was unable to give vacant possession in accordance with our requirements. Other premises have been found, which I believe will be entirely satisfactory but which will not be available until autumn 2014. In the meantime, and starting in April, the administration and some of the judges of the East London Family Court will be based at Gee Street, the other judges sitting at the Royal Courts of Justice. So the East London Family Court will be up and running on schedule, albeit not initially at its final location.

The PLO 2014

Work is almost completed on the amendment of the current Pilot PLO and the supporting rules. The final version (PLO 2014) will be finalised by the Family Procedure Rules Committee on 3 March 2014 and published shortly afterwards. The changes to be incorporated in the light of experience with the Pilot PLO are few. Clearer guidance will be given in relation to the listing of EPO, ICO and other urgent

hearings. The CMH will be required to be listed not before Day 12 and not later than Day 18, thus allowing for greater flexibility and some relaxation of the timescale. The CMO, which has been much criticised, will be improved. There will be scope for an urgent preliminary CMH to allow for the giving of appropriate directions after the initial directions on allocation but before the CMH. Greater prominence will be given to the issues identified in *Re E (A Child)* [2014] EWHC 6 (Fam).

The application form in public law cases (Form C110A) is being revised to accommodate changes in the PLO and make it more user-friendly for the applicant, the respondents and the court alike. It will be finalised by the Family Procedure Rules Committee on 3 March 2014 and published shortly afterwards. Its use will be required from 22 April 2014.

In a previous 'View' ([2013] Fam Law 974, 975-976) I referred to the Templates issued by Cafcass for use by guardians ([2013] Fam Law 1059) and by the Association of Directors of Children's Services (ADCS) for possible use by local authorities. The Cafcass Template has been revised in the light of experience and to make it *B-S* compliant. The ADCS Template is in the process of being revised and will probably be issued as an Annexe to Volume 1 of the up-dated Children Act Guidance intended to be issued by DfE in April 2014. By the time you read this, the draft of Volume 1, with the Template, will have been issued for consultation by DfE. The consultation period will end in late March 2014. It is important, from my perspective, that consultees respond to the consultation questions in relation to the Template, so that the final version, to be used from April 2014 onwards, is as good as we can make it and commands the widest support.

The CAP 2014

Well before the end of February I will have received the final report of the Private Law Working Group chaired by Cobb J and the final draft of the proposed Child Arrangements Programme. This will be considered by the Family Procedure Rules Committee on 3 March 2014. The final version (CAP 2014) will be published shortly

afterwards, so as to allow time for everyone to assimilate it before it comes into effect on 22 April 2014. The final version is unlikely to differ that much from the draft put out for consultation ([2013] Fam Law 1608).

Two other important changes in relation to private law also need to be noted. The new rules and accompanying Practice Direction in relation to mediation and MIAMS will be coming into force on 22 April 2014. They will be finalised by the Family Procedure Rules Committee on 3 March 2014 and published shortly afterwards, as will the amended application form (Form C100), incorporating in a single document, and with various other amendments, the existing Forms C100 and FM1.

Transparency

I will be monitoring, as I am sure the media will also be, the impact of the Practice Guidance on Transparency in the Family Courts which I issued on 16 January 2014 ([2014] Fam Law 222). In the meantime I will be issuing shortly, for discussion and comment, further draft Practice Guidance dealing with what I will propose should be the next step, namely the disclosure to the media of certain categories of document, subject, of course, to appropriate restrictions and safeguards.

Bundles

The period of consultation in relation to the draft Revised Bundles Practice Direction which I issued for discussion and comment on 14 January 2014 ([2014] Fam Law 226) will have closed by the end of February. A further draft, revised in the light of consultation responses, will be put before the Family Procedure Rules Committee on 3 March 2014 and published shortly afterwards. My intention is that with only one exception – the provision limiting the size of the bundle – the Revised Bundles Practice Direction will come into effect on 22 April 2014. Unhappily, because of ongoing discussions between the Ministry of Justice, the Legal Aid Authority and the legal professions about the financial implications of this much-needed change, it seems unlikely that the provision limiting the size of the bundle can be brought into

effect until July 2014. This is, I have to say, a matter of regret, not least because my thinking on this point was spelt out as long ago as July 2013 ([2013] Fam Law 974, 977-978) and even more explicitly two months later ([2013] Fam Law 1260, 1263-1264). However, and whatever the reasons, we are where we are.

Orders

The family orders project continues under the leadership of Mostyn J. I will shortly be issuing a second batch of draft orders for discussion and comment. May I take this opportunity of making clear that this important work has not been put on hold indefinitely. There has merely been a necessary slowing of the tempo, whilst even more pressing matters take priority. Implementation may be staged and in any event will not take place until after April 2014.

Arbitration in financial remedy cases

Following on from my decision in *S v S* [2014] EWHC 7 (Fam), dealing with how the court should approach applications to enforce arbitral awards in financial remedy cases, I want to move forward as soon as possible on two fronts. Pending more general changes to the Family Procedure Rules in relation to arbitration and other forms of ADR, I am proposing to issue in the near future, for discussion and comment, both a draft rule change to enable relevant applications under the Arbitration Act 1996 to be made in the Family Division and not only, as at present, in the Commercial Court, and also draft Guidance dealing with a number of procedural matters not covered by *S v S*.

Recent cases

Finally, can I draw attention to two important recent decisions of significance in relation to practice in public law cases. In *A Local Authority v DG and others* [2014] EWHC 63 (Fam), Keehan J strongly criticised the wholesale failure of all the parties to comply with the court's directions and gave important guidance as to the practice to

be adopted where there are concurrent public law and criminal proceedings, in particular in relation to section 98 of the Children Act 1989. In *Re NL (A child) (Appeal: Interim Care Order: Facts and Reasons)* [2014] EWHC 270 (Fam), Pauffley J had to deal with circumstances which I hope will never recur. Both judgments, if I may say so, will repay careful consideration by all public law practitioners.