



Reform for the Family jurisdiction

A message to family judges from the President of the Family Division

1. How will the Reform Programme achieve change for the administration of family justice?

1.1 As you know, there has been much change in the practice and administration of family justice in the last five years. The Reform Programme brings further change. This is specifically targeted at:

- New technology for the Family Court to make the system simpler and more efficient for everyone;
- Improved court estate;
- Enhanced case officer (in the legislation introduced in the previous parliament, the description is 'authorised' staff; for more details see Annex A: the legislation, p. 16) or legal adviser functions to lighten the burdens on judges.

2. Digital technology

2.1 The Reform Programme is concentrating on bringing digital technology into the courts. It is hoped that the Family Court, which is already leading the way, will increasingly move to an online paperless environment where applications are issued online, and where both the court file and the hearing bundle are electronic. This will be made possible by technology (the "Common Components"), to be shared across the Civil, Family and Tribunals jurisdictions (CFT), and replacing, in stages, old systems like Familyman; the aim is that judges, staff, and all other participants need only use one common CFT digital court system. This should be both more efficient and more user friendly, as well as being cheaper to run.

2.2 Online applications are being piloted at present: the online divorce project and the online probate project are both advancing at a good pace. The Reform teams are working on pilots for the online issue of private law cases and public law (care) cases, as well as the online issue of financial remedies cases.

2.3 The online application marks a deliberate and significant break with the past. The applicant no longer fills in the traditional court form – the divorce petition, for example – but instead completes an online questionnaire carefully designed to tease out all the relevant information in a way which is both user friendly and, so far as possible, fool-proof. The online divorce pilot has been a success so far, and shows that it has much which can be usefully adapted to other areas.

2.4 Digital technology will be deployed to govern other aspects of our work to save us time and cost. Video-link technology will be improved in the courts to facilitate easier remote access to justice in the Family Court. While fully video hearings (where all participants including the judge or magistrate join through technology) are being developed and piloted in other jurisdictions, it is not envisaged that these hearings will initially be as widely rolled out for family cases. There will be scope, as at present, for their use in certain case management and directions hearings. The development of online hearings will need to be carefully evaluated and very careful thought given to



which types of hearing in which types of family case will or will not be appropriately conducted online.

2.5 The Reform teams recognise that the digital and video equipment must work effectively in all courts, and that adequate staff must be available to support its operation. This is vital and, as far as I am concerned, non-negotiable.

2.6 Investigations are underway to identify enhanced digital technology to assist in the vitally important function of listing. Our F-diary is already one of the more effective listing systems in the courts. A Judicial Working Group, with significant representation from listing officers, is looking at software which could improve our current process. We have been clear that listing remains a judicial function, and any new system must be used by listing officers on court premises.

3. Estate reform

3.1 A second major feature of Reform is estate reform. It is recognised that much of the court estate is sorely in need of refurbishment, and that the pressure on the court estate is increased by the disposal of some court buildings. The closure of courts and tribunals is not uncontroversial, but for the first time, the proceeds from buildings sales are being reinvested not merely to improve IT but more generally in modernisation of the retained estate. The development of a new Courts and Tribunals Design Guide will mean that refurbishments and new builds share a standardised and approved layout. Judges and administrative staff should not have to work in the poor conditions which are too often found at present.

3.2 In the refurbishment of the court estate, greater security for the judges and participants is a non-negotiable requirement. This is an opportunity to make participation more flexible and court buildings safer, and in so doing to protect vulnerable users, judges, and staff. Adequate WiFi and TV screens for the presentation of digital evidence will also be essential additions.

3.3 Renovation work in the courts is as an urgent priority. The recent consultation on HMCTS' estates strategy has generated valuable feedback and will inform the development of the new court estate design guide.

3.4 Staff working in the courts require proper working conditions and need in the main to be working in close proximity to the judges. The listing officer and a digital support officer (to help with the technology) must be in the court; it is feasible for some other roles to be centralised in Courts and Tribunals Service Centres (CTSCs).

3.5 These CTSCs will be in a number of locations around the country. They will bring together call centres and other 'contact' functions (including many administrative functions associated with the running of the court, as well as assisting those using new online services). The senior judiciary will continue to engage with the Courts and Tribunals and CTSCs project to confirm how the work can be distributed.

3.6 It is too early to predict at this stage to what extent family courts can safely and appropriately be located in non-court buildings.

3.7 HMCTS proposes to pilot extending the operating hours of some courts, including a family court, with the aim of increasing the utilisation of court buildings. It would extend only the court opening hours and would not mean judges working longer hours. This is not an uncontroversial



proposal, given its implications for court users (parties and witnesses, and their families), lawyers, staff and judges; this is why it needs to be cautiously piloted. A decision on this is expected soon; beyond the pilot, no decisions have been taken. Any implementation of extended hours will only be with judicial consent.

4. Case officers

4.1 Case Officers will become a feature of the new court personnel structure across all jurisdictions. In the Family jurisdiction, case officers may cover a number of roles. Case officers will perform some of the functions currently undertaken by legal advisers. Additionally, it is intended that case officers will take on more administrative work ('box-work') so as to free up judicial time. Specifically:

- It is envisaged that, legal advisers could be authorised with some specific new powers, dependent on wider consultation, and ultimately legislation;
- It is expected that the role of the legal adviser will become standardised across the courts and jurisdictions nationally;
- The functions to be performed by other types of case officer remain to be determined.

4.2 A Case Officer Working Group has developed broad cross-jurisdictional principles to support case officers and judges in areas such as recruitment and training of case officers. The Family JEG (below) is developing proposals for a range of new powers which could be exercised by case officers in the Family Court.

4.3 Relevant to this development is the nascent work of the Online Procedure Advisory Group (OPAG) which is considering the opportunities for developing concise and accessible cross-jurisdictional online procedure rules.

5. Broader changes in support of Reform

5.1 These significant reform proposals take effect against a backdrop of significant transformation in the practice and administration of family law over recent years. Most notable among the developments have been:

- The creation of the Family Court in 2014;
- The implementation of a statutory 26-week time limit in public law cases;
- Overhaul of key procedural rules, including in relation to experts (part 25 of the Family Procedure Rules 2010 (FPR)), trial bundles (Practice Direction 27A), public law cases (PD 12A) and private law cases (PD 12B), enhanced protection for victims of domestic abuse (PD 12J) and new provision for assisting vulnerable witnesses (FPR rule 3A and PD 3AA);
- Development of the transparency of family court process, accompanied by greater numbers of published family court judgments;



- The development of the Family, Drug, and Alcohol Court (FDAC);
- The piloting of Family Settlement Conferences;
- The creation of the Financial Remedies Court;
- Greater use of standard form orders;
- Proposals to separate Divorce and Financial Remedy processes;
- Authorisation for legal advisers to consider entitlement to decrees in divorce;
- Research into the significant increases and regional variations in the issuing and disposing of care cases;
- Strong judicial encouragement to promote legislative change to prevent cross-examination of alleged victims and vulnerable witnesses by alleged perpetrators, as in the criminal courts.

5.2 We must encourage and make an effective reality of methods of Non-Court Dispute Resolution (NCDR) where they are proved effective.

5.3 Legal aid changes have had a significant impact on our work. The Ministry of Justice review of the impact of LASPO, to assess its impact against its objectives of discouraging unnecessary and adversarial litigation at public expense and targeting legal aid at those who need it most, is timely.

5.4 The Reform Programme is likely to align with this broader set of changes underway. Together, these steps will bring lasting and fundamental changes and improvements to family justice, and how the judiciary at all tiers work within this jurisdiction.

6. Who is making the decisions?

6.1 High level decision-making on the Reform Programme is taken at the most senior level of the judiciary (principally the Lord Chief Justice and Heads of Division). The senior judiciary are themselves advised and assisted by Judicial Engagement Groups (comprising specialist judges and attended by HMCTS representatives) in all jurisdictions. The Family Judicial Engagement Group (FJEG) is chaired by a Family Division Judge, and benefits from representation from family specialist judges of all tiers:

- The Circuit Bench;
- District Bench;
- District Judge (Magistrates' Courts);
- Magistrates;
- Legal Advisers.

6.2 Family judges are also represented on Working Groups which have been drawn together to work on specific Reform projects including:

- Video Hearings;



- Scheduling and Listing;
- Development of Public law and adoption on line process.

6.3 As technology is rolled out, it will be tested and piloted, and the judiciary trained. We will continue to work with HMCTS so that the technology is what the public needs and as we want it.

This document provides a view of the future once the Reform Programme has ended in 2022. It is based on my current understanding of Reform, but many of its core features are still being developed. Your views on this document will be welcomed and valued.

There is an online survey being sent out with the questions asked in the remainder of this document. I encourage you to complete this. If you have further thoughts which you would like to share, you can send them to pfd.office@judiciary.uk.

This is your opportunity to help shape the future of family justice.

James Munby

President of the Family Division

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