

VIEW FROM THE PRESIDENT'S CHAMBERS (5)

The process of reform : London

Sir James Munby, President of the Family Division

I set out the essential shape and organisation of the new Family Court in ‘The Single Family Court: A Joint Statement by the President of the Family Division and the HMCTS Family Business Authority’ issued in April 2013: May [2013] Fam Law 600. I had previously sketched out the vision for London in ‘Failure is not an option’: April [2013] Fam Law 401. I added an update in ‘View from the President’s Chambers: the process of reform: an update’: August [2013] Fam Law 974. I set out some of the details in ‘The Single Family Court in London: A Joint Statement by the President of the Family Division and HMCTS London Region’ issued in April 2013: June [2013] Fam Law 740. It is now time to bring matters more comprehensively up to date.

The Family Court

The four key features of the Family Court remain as I set them out in the first ‘Joint Statement.’ They are: (1) The Family Court will deal with ALL family cases with the exception of two classes of case that are reserved for the Family Division (reserved work): (a) cases invoking the inherent jurisdiction of the High Court, whether in relation to children (wardship) or incapacitated or vulnerable adults; (b) international cases (the precise limits of this are yet to be defined, though it will include cases involving applications for relief under either the Hague Convention or Brussels IIR). (2) As with the Crown Court, the judiciary of the Family Court will include High Court Judges, Circuit Judges and Recorders. Unlike the Crown Court the judiciary of the Family Court will also include District Judges (including District Judges of the Magistrates’ Court and District Judges of the Principal Registry of the Family Division) and Magistrates. Wherever possible all the judges of the Family Court will sit under the same roof. (3) The Family Proceedings Court will no longer exist. All family work currently dealt with in the County Court will be dealt with in the Family Court. The Family Division will deal only with reserved work. Except for reserved work, cases that require to be heard by a High Court Judge will be heard in the Family Court by a High Court Judge (or a section 9 judge). Cases will accordingly no longer

be transferred to the High Court on the grounds of complexity. No transfer of a case from the Family Court to the High Court will be permitted unless ordered by the President of the Family Division or a High Court Judge (not a section 9 judge). One consequence of this is that in future far fewer cases than at present will be issued or heard in the High Court. (4) England and Wales will continue to be divided into geographical areas judicially led and managed by the Designated Family Judge (subject as at present to the Family Division Liaison Judge and the President of the Family Division).

Within the area for which the Designated Family Judge is responsible, the overarching principle will be that all the locations at which hearings take place will be managed and operated as a single Family Court. There will no longer be ‘care centres’ and ‘family hearing centres’. The three key features of the local 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 Family Court. (3) There will be a centralised and unified administration, principally based at the Designated Family Centre, for the entire local Family Court. The key elements of this will be: (a) a centralised ‘back office’; (b) a centralised ‘gate-keeping and allocation team’; and (c) centralised listing. The principles in (2) and (3) will be subject to local variation where circumstances require, *so long as the basic principles of the ‘single point of entry’ and a centralised and unified administration for the entire local Family Court are not compromised.* Because of its complexities such variations will be necessary in London.

The Family Court in London

The overall plan for the Family Court in London remains as I set it out in the second ‘Joint Statement.’

As currently organised, London has one Designated Family Judge, based at First Avenue House, which is a care centre. Care cases are also heard in the County Courts

at Barnet, Kingston, Bromley and Croydon. There are, in addition, another 10 County Courts handling private law family cases and 9 Family Proceedings Courts (see column 3 of the attached Table). Between them, these courts serve 33 local authorities (the City of London and the 32 boroughs in Greater London: see column 1 of the Table).

The introduction of the Family Court necessitates a fundamental re-organisation of the family justice system in London. The need for this has been apparent for quite some time. It was obvious when I was the Family Division Liaison Judge for London some years ago. It is even more obvious today.

The Family Court in London – the Designated Family Centres

The proposed new structure has six key elements. In outline: (1) There will be three Family Courts, each with its own Designated Family Judge and Designated Family Centre: one in the centre of London, at First Avenue House; one in the east, at Exchange Tower in Docklands; and the third in the west. (2) Each of the three Family Courts will have a ‘single point of entry’ and a centralised and unified administration as described above. (3) Each of the three Family Courts will serve a number of local authorities. (4) Each of the three Family Courts will have a number of linked Hearing Centres. (5) The hearing of care cases will be confined to a limited number of courts. (6) Private law and divorce cases will be handled by all three Designated Family Centres and their linked Hearing Centres, though some specialist jurisdictions may be reserved to the Designated Family Centres.

The locations for the Designated Family Centres in the centre and east of London have been determined. In central London the Designated Family Centre will be at First Avenue House, the current home of the Principal Registry of the Family Division. In east London the Designated Family Centre will be at newly acquired and completely refurbished premises at Exchange Tower in Docklands. It is being fitted out to meet our requirements and will be available for use by April 2014. It is two minutes walk from South Quay station on the Docklands Light Railway and not much further to Canary Wharf station on the Jubilee Line and (when it is opened) Canary Wharf Crossrail station.

The preferred location for the Designated Family Centre in west London is at Hatton Cross, in premises currently occupied by Tribunals. It is a short (and frequent) bus ride from Hatton Cross station on the Piccadilly Line and (with a quicker journey from central London) Feltham station on the main line from Waterloo. It has excellent facilities which will require only modest adjustments to make them more than fit for use as family courts. Whether, when and over what time it will be possible for us to move into Hatton Cross is dependent upon more accurate analysis of future Tribunal needs than has yet been possible. I am reasonably confident that we will be able to move there, at least in part, in the relatively near future. But in the meantime we will have to make interim arrangements for the Family Court in west London.

The Family Court in London – the Designated Family Judges

The existing DFJ for London, His Honour Judge Altman, will become the DFJ for the Central London Family Court. For the time being, he continues to be responsible for issues affecting London generally and will act, as Senior DFJ across London, as the point of contact for all agencies and individuals who have London-wide responsibilities.

DFJs will be appointed for the East London Family Court and the West London Family Court. These will be new posts. Following an ‘expressions of interest’ exercise, the new DFJ for the East London Family Court has been selected and will take up post with effect from April 2014. The name of the successful candidate will be published shortly. In due course there will be an ‘expressions of interest’ exercise for the new DFJ for the West London Family Court.

The new DFJs will be involved in the planning and implementation of the new Family Courts in east and west London and in the planning and fitting out of the new Designated Family Centres at Exchange Tower and, in due course, Hatton Cross.

The geography of the Family Courts in London

In the second ‘Joint Statement’ I sketched out a possible model for what one may call the ‘geography’ of the new Family Courts in London. I emphasised that this was no more than a *possible* model and that the precise arrangements for all this remained to be considered and finalised. Since then, as I had hoped, there has been much discussion and comment about how best to plan the Family Courts in London. In particular there have been what I referred to somewhat Delphicly in my last ‘View’ (August [2013] Fam Law 974) as “various important and very welcome developments being undertaken on the initiative of the local authorities.”

The geography of the Family Courts in London – public law cases

There are, as already mentioned, 33 local authorities in London. Following on from the original Tri-borough pilot, which involved 3 local authorities (Westminster, Kensington & Chelsea, Hammersmith & Fulham) a further 23 local authorities have thus far formed themselves into similar groupings, sharing legal services or otherwise co-ordinating their handling of care cases. So there are now 8 such groupings covering 26 local authorities. Taking them in a roughly geographical order they are (i) Westminster, Kensington & Chelsea, Hammersmith & Fulham, (ii) Barnet, Enfield, Haringey, (iii) Camden, Islington, (iv) Brent, Ealing, Harrow, (v) Richmond, Kingston, Hounslow, Merton, Sutton, (vi) Lambeth, Southwark, Lewisham, Greenwich, (vii) Newham, Redbridge, Barking & Dagenham, Waltham Forest, and (viii) Bexley, Bromley. That leaves just 7 local authorities at present un-grouped, though further developments are likely to reduce this number.

Our planning for the new Family Courts in London must reflect these developments and the views of the local authorities as to where their care cases should be issued. We must also, of course, have regard to the volumes of care cases coming from the various local authorities.

The first two columns of the Table set out what is now proposed. The first column, reflecting the groupings I have described, shows how the three Family Courts will serve the local authorities. The numbers in parentheses are the average numbers of care cases for the five years from 2008/9 to 2012/3 based on CAFCASS statistics. The Table is largely self-explanatory, but two points need to be made. As already noted,

Sutton is grouped with Richmond, Kingston, Hounslow and Merton. Their care cases will be issued and heard in the West London Family Court, but, for the time being at least, Sutton wishes its care cases to continue being issued and heard at Croydon. Lewisham and Greenwich are grouped with Southwark and Lambeth. Their care cases will all be issued and heard, as they wish, in the Central London Family Court, but private law cases from Lewisham and Greenwich will be issued and heard in the East London Family Court.

In central London care cases will be issued at First Avenue House and heard, as currently, at First Avenue House and Gee Street. The Inner London Family Proceedings Court (Wells Street) will close, some of its cases being heard in future at First Avenue House, others (as indicated in the second column of the Table) at Exchange Tower. The highly regarded Family Drug and Alcohol Court will continue, as part of the Central London Family Court at First Avenue House.

In east London most care cases will be issued and heard at Exchange Tower. It makes sense to discontinue all family hearings in the courts currently used by Stratford FPC; in future such hearings will take place at Exchange Tower. Some care cases (as indicated in the second column of the Table) will be heard, as currently, at Croydon and Bromley, operating as a ‘virtual’ single court making use of the courts currently used by Bromley FPC and Croydon FPC as well as those currently used by Bromley and Croydon County Courts. It may be appropriate in due course to discontinue all family hearings in the courts currently used by Bexley FPC.

In west London, pending availability of sufficient accommodation at Hatton Cross, some care cases (as indicated in the second column of the Table) will be heard, as currently, at Barnet and Kingston and some in future at Willesden. The courts currently used by Barnet FPC will be fully integrated with the courts currently used by Barnet County Court. It is proposed to discontinue all family hearings in the courts currently used by Uxbridge FPC. As the arrangements in West London settle, it will be possible to consider whether family hearings in the courts currently used by Brent FPC and Richmond FPC should continue.

The geography of the Family Courts in London – private law cases

The third, fourth and fifth columns of the Table set out a possible future ‘map’, which I publish in order to stimulate debate.

In central London there is probably no need to continue family hearings in the courts currently used by Lambeth County Court, where family cases form only a small part of the workload. Inner London FPC (Wells Street) is closing. It may be appropriate in due course also to discontinue all family hearings in the courts currently used by Clerkenwell and Shoreditch County Court (that is, the part of the Gee Street court currently used by Clerkenwell and Shoreditch County Court; not the part of Gee Street used as a hearing centre for First Avenue House cases) and Wandsworth County Court.

In east London the opening of the Designated Family Centre at Exchange Tower presents us with the opportunity to discontinue all family hearings in the courts currently used by Woolwich County Court and Stratford FPC. The same approach could also be applied to family hearings in the courts currently used by Bow County Court and Bexley FPC. However, these are not entirely straightforward questions and the incoming DFJ will want to consider them carefully.

In west London it is proposed to discontinue all family hearings in the courts currently used by Uxbridge FPC. As indicated above, it may be appropriate in due course also to discontinue all family hearings in the courts currently used by Brent FPC and Richmond FPC.

Some of these proposals are still tentative, some very tentative. More work requires to be done, and there will be consultation and further discussion, before it can be finalised. The DFJs, the FDLJ and I will wish to consider the views of all those involved.

The geography of the Family Courts in London – divorce

Within the context of national planning for the new Family Court, consideration is currently being given to the desirability of centralising the handling of divorce cases

(as distinct from any related claims for financial remedies). As a separate exercise, consideration is being given as to how divorce cases can best be handled in London. Centralised handling of all London divorce cases has obvious attractions. I hope to be in a position to make a further announcement in the near future.

First Avenue House and the Principal Registry of the Family Division

At present, First Avenue House, as well as being a care centre, is the home of the Principal Registry of the Family Division. In future it is to be a part of the Family Court and the Designated Family Centre for central London. It is also to be the new home of the Court of Protection when that moves from the Thomas More Building in the Royal Courts of Justice later this year.

As will be appreciated from what I have said above, the Family Court and the High Court will be entirely separate courts. There will be no logical, legal or, indeed, practical basis for First Avenue House continuing to be the home of the Principal Registry of the Family Division. I have decided that the Principal Registry of the Family Division, as an entity distinct from the Family Court at First Avenue House, will be moved to the Royal Courts of Justice and located in the office of the Clerk of the Rules. I have already noted that in future far fewer cases than at present will be issued or heard in the High Court. Even assuming that the vast bulk of High Court cases will in future be issued in London (rather than in a District Registry), I am satisfied, having discussed the matter with those concerned, that there will be more than adequate facilities at the Royal Courts of Justice to issue and handle the High Court workload. It will also reduce the volume of files that at present have to shuttle up and down Chancery Lane.

I am determined that First Avenue House, having gone through a period of considerable difficulties, should be a centre of excellence. Just as the Old Bailey, the Central Criminal Court, is both a Crown Court and yet something rather more than just a Crown Court, so too I have the same ambition for the Central London Designated Family Centre, as First Avenue House will become. Its flagship status is to be recognised in its new name, the Central Family Court. But there is more.

The Principal Registry of the Family Division has a specialist corps of District Judges, the successors of the Registrars who used to sit at Somerset House. At present they can sit only in the Principal Registry. In future they will be able to sit in the Family Court. They have traditionally had special expertise in the larger ancillary relief cases. I want to nurture and encourage that expertise.

For the future I see the District Judges of the Principal Registry of the Family Division as having two primary roles.

First, as District Judges *of the Principal Registry of the Family Division* they have – or ought to have – the same role vis-à-vis the judges of the Family Division as the Masters have in relation to the judges of the Chancery and Queen’s Bench Divisions. To facilitate this I propose that one or more of the District Judges should sit at the Royal Courts of Justice (perhaps on a rota) to assist the judges of the Family Division in handling interlocutory work in High Court cases and, in particular, to assist the Family Division’s urgent applications judge.

Secondly, the District Judges of the Principal Registry of the Family Division should be available to sit in the Family Court, primarily at the Central London Designated Family Centre – the Central Family Court – at First Avenue House, in particular to handle high value and complex financial remedy litigation in which they have acknowledged specialist experience.

Until recently there were 20 District Judges of the Principal Registry of the Family Division. At present there are only 12, and that number is likely to fall further in the near future. I do not envisage that we shall in future need 20. Precisely how many will be needed is a matter I am currently discussing both with the District Judges and with the DFJ and FDLJ. The analysis has to reflect not only the workload but also the fact that we now have a number of Circuit Judges in London (some former District Judges of the Principal Registry of the Family Division) with real expertise in high value money cases, some of whom are already part of the Financial Remedy Unit at First Avenue House. I do intend, however, to press for an early competition to appoint more District Judges of the Principal Registry of the Family Division, to consider the

deployment to the Central Family Court of other judges with specialist expertise, and to encourage the appointment of specialist Recorders.

Magistrates and District Judges (Magistrates' Court)

I wish to emphasise, again, a vitally important point that I have made many times before: the significance of the Magistracy. I do not accept, I have never accepted, that Magistrates are unsuited for family work or, in particular, for public law cases. Quite the contrary. So Magistrates will play a vitally important part as judges in the Family Court. And the same goes, of course, for the District Judges (Magistrates' Court).

Wherever possible, as I have said, all the judges of the Family Court will sit under the same roof – and this of course includes the Magistrates and DJ(MC)s, for they will be judges of the Family Court. This has been the arrangement at Barnet for some years now. As mentioned above, it is also to be the arrangement at First Avenue House and at Exchange Tower and, I would hope, in due course at Hatton Cross and elsewhere. And, as also mentioned above, it is proposed in some cases, and suggested in others, that family hearings be discontinued in some courts currently used by some FPCs. The consequence is that Magistrates, like other judges in the new Family Court, may find themselves sitting in different places than those they are familiar with. This is not merely inevitable – it is also highly desirable if we are to make the most of the enormous opportunities for improvement of the family justice system that the creation of the new Family Court makes possible. As with all the other judges who may be affected by these changes, there will be consultation and further discussion.

I do, however, wish to take this opportunity of repeating that I see enormous value in the continued existence of the Greater London Family Panel. Nothing I am proposing should be seen as suggesting let alone requiring a break up.

District Judges

In parallel with the creation of the new Family Court, work is progressing, both nationally and in London, with the planning of the new County Court.

As will be apparent from what I have said above about the future geography of the Family Courts in London in relation to private law cases, it makes sense to think in terms of some of the County Courts in London giving up their family work, becoming in effect civil only courts. Others, it may be, can increase their proportion of family work, possibly even becoming in effect family only courts. I am very conscious that these shifts in work will have implications for those sitting in the County Courts, District Judges in particular, who currently sit in both jurisdictions and sometimes hearing mixed lists. Again, there will be consultation and further discussion, both at ground level and with the DFJs, the FDLJ and me, as well as with the Designated Civil Judge and the Presiding Judges.

Timing

The Court of Protection will move into First Avenue House in the autumn, followed a little later by the Inner London Family Proceedings Court. All the necessary building works will have been completed in time to enable First Avenue House to commence operations as the Central Family Court in April 2014. There is a similar timetable in relation to Exchange Tower. I have made it absolutely clear to all concerned that all the necessary works at both buildings *must* be completed in time for the launch of the new Family Courts in April 2014 and that I will tolerate no delays which imperil this objective.

Timing in relation to Hatton Cross is at present less clear. I hope to be in a position to make a further announcement in the near future.

A final comment

We have a wonderful opportunity to make the family justice system in London something we can all be proud of, as also to revitalise First Avenue House. I urge you all, whatever your role in the family justice system, to do your part in enabling me to realise the vision. To repeat in this context a slogan I have previously used: it can be done, it must be done, it will be done. I am confident of your support. I shall welcome and value your feedback.