

Supplementary written evidence from the Transparency Project

1. On 29 October 2021, as anticipated, the President of the Family Division published his Transparency Review. In tandem, Mostyn J (lead judge in the Financial Remedies Court) published proposals for consultation in respect of transparency in that branch of the Family Court¹.
2. Those documents set out a raft of proposed reforms in order to effect a substantial change of culture within the family court – towards greater transparency, whilst maintaining anonymity for families and appropriate levels of confidentiality. We have summarised those proposals and our initial response to them², but broadly they relate to :
 - a. A flip of the current presumption against journalists and legal bloggers being permitted to report information about family cases, to a presumption that – subject to anonymity – they will be able to do so, to be implemented via a change in court rules – to be piloted in the first instance in 2 courts,
 - b. Proposals for an increase in the number of judgments published by family judges – with support from HMCTS with the anonymisation process,
 - c. Proposals for data gathering and sharing by the family justice system,
 - d. Proposals for setting up a forum for communication/liaison between family court professionals, judiciary, the media and Parliamentarians, in order to promote better understanding of the work of the courts.
3. We are broadly supportive of the proposed reforms, but await further information as regards timing, membership of the proposed Transparency Implementation Group, timetabling and resourcing of the proposals.
4. As the Committee is no doubt aware, there have been calls for change in this field for decades, including through Parliament - for instance in 2004-5 when the Constitutional Affairs Committee considered the operation of the Family Courts³. That work ultimately led to some very limited reform in 2009, giving the media a right of access but not a right

¹ Both documents can be found here : <https://www.judiciary.uk/publications/transparency-in-the-family-courts-report/>

² <https://www.transparencyproject.org.uk/seeing-invisible-elephants-the-transparency-review-is-published/> and also see post here from Sir James Munby regarding the financial remedies proposals :

³ <https://publications.parliament.uk/pa/cm200405/cmselect/cmconst/116/116.pdf>

to report. Further legislation in 2010 was enacted via the Children Schools & Families Act 2010 but this was later repealed without being brought into force.

5. We would like to invite the Justice Committee to consider the proposals for reform documents as part of its inquiry, in particular those aspects of the proposals where Parliament and or Parliamentarians and Government might be able or required to assist, namely :

- a. In respect of s12 Administration of Justice Act 1960,
- b. In respect of the potential involvement of Members of Parliament in communication and liaison initiatives,
- c. In respect of those matters which require resourcing, in order to be implemented in full, in particular the proposed Anonymisation Unit, which is critical to both achieving transparency and maintaining proper protection for families and children
- d. In respect of those matters which are to be the subject of further consultation, namely :
 - i. Access to documents by the media / bloggers,
 - ii. The detail of proposed rule changes around reporting, including
 1. how best to achieve a situation where published judgments do not contain inappropriate detail (for example graphic descriptions of abuse which might be traumatising or sought out for inappropriate reasons),
 2. The approach to the naming of local authorities, social workers, experts and treating professionals
 - iii. The Financial Remedies Court proposed 'Reporting Permission Order' (consultation open until 26 November),
 - iv. The details of the proposed pilot.

6. We would like to invite the Committee to consider scheduling an oral evidence session, specifically looking at open justice in the context of Family Proceedings.

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For and on behalf of The Transparency Project Team

30 October 2021