**DATA COLLECTION WORKING GROUP**

**(A joint project of the Financial Remedies Court and the Law Commission)**

**MINUTES OF MEETING HELD VIA MICROSOFT TEAMS ON 3 FEBRUARY 2022 AT 4.30 PM**

In attendance:

**Judicial arm**

McFarlane P,

Mostyn J,

Theis J,

Peel J,

HHJ Hess,

HHJ Greensmith,

Harry Campbell,

Tazeen Said.

**Law Commission**

Sir Nicholas Green,

Spencer Clarke,

Nicholas Hopkins,

Matthew Jolley.

**Academia/Private Sector**

Emma Hitchings,

Natalie Byrom,

**MOJ**

Jane Becker,

Daniel Nesbitt,

Simon Qasim,

Glenn Christmas,

Rachel Ferrari.

**HMCTS**

Adam Lennon,

Isabel Syred.

Note of meeting held via Microsoft Teams:

**The meeting commenced at 4.30 pm.**

1. **Introductions/opening remarks**
2. Mostyn J made introductions.
3. McFarlane P endorsed the work of the working group and expressed his hope that the data harvested as a result of the project will be of assistance to the public and further the objectives of his transparency agenda. Others present expressed the same view. Mostyn J noted that Sir James Munby is supportive of the working group and its project.
4. Mostyn J explained that this would be his last meeting as a member of the group as he will be relinquishing his role.
5. Mostyn J explained that minutes of the meeting would be taken and his proposal was that they be published. This was supported by other members of the working group. There was a discussion as to where the minutes would be published and it was agreed that, subject to the approval of the correct gatekeepers, that they be published on the judiciary’s website.
6. **General discussion as to the importance of the project**
7. There was discussion as to the importance of obtaining more wide-ranging data than is presently available. Emma Hitchings [**EH**] explained that she had worked on a data collection exercise of just under 400 consent orders a number of years ago and, whilst they were able to identify regional variations, a far greater data sample is required to collect the correct gamut of information. This was echoed by other members of the working group including Peel J who said that, his capacity as a member of the Farquhar sub-group of the FRC tasked with looking at improving financial remedies in low-money cases, it has become clear that there is an imperative for a greater quantity of better-quality data.
8. **Obtaining usable data**
9. The working group discussed the challenges of obtaining usable data from (a) the Form D81s generated in consent order cases of which there are approximately 32,000 per annum (‘**the consent order cases**’); and (b) information from contested cases of which there are approximately 8,000 per annum (‘**the contested cases**’).
10. The consent order cases
11. Mostyn J noted that the consent order cases produced hard data in a digital or semi-digital format because the data is contained in a Form D81 with every consent order. The challenge was said to be in harvesting the data from a PDF (the Form D81) and replanting it in a searchable database.
12. Adam Lennon [**AL**] of HMCTS confirmed that they have a contract with a bulk scanner provider so applications can be scanned in, the data can be scraped from the same, and then be OCRed. There was a question of whether there would be the funds available to undertake this work. The consensus was that in light of the importance of the project that it was hoped the funds would be made available, save that AL confirmed this would need to be confirmed with HMCTS at board level as HMCTS’s operational budget would not cover the cost.
13. HHJ Greensmith queried whether the professional bodies were aware that the new Form D81 was being brought in. Mostyn J explained that the professional bodies (FLBA and Resolution) were consulted on the new Form D81 and changes were made as a result of the responses thereto.
14. Natalie Byrom [**NB**] queried whether there is a digital route/counterpart to the PDF for the Form D81. AL confirmed that the there is not because a PDF copy of the Form D81 is uploaded and that the rationale for going down that route was both for speed and cost reasons. NB expressed her view that PDF is the least preferred form of collecting data for analysis and it would therefore be helpful to give consideration to whether the Form D81 could be digitised. Mostyn J suggested that a paper be prepared by the MoJ saying what they think is achievable technologically for harvesting reliable data and the cost to it. The working group repeatedly emphasised the need to ensure that the data captured is reliable so it does not, for example, turn a figure of £100,000 into £10,000,000.
15. EH queried what should be captured from the Form D81. The working group agreed that if the focus is only on outputs then there will not be sufficient contextual data gathered with the consequence that a number of pages will need to be captured from the Form D81s. Mostyn J agreed and noted that, for example, the data that will need to be gathered from the Form D81s includes the length of the marriage; the length of the relationship (including cohabitation); and the number of children.
16. Mostyn J queried who should undertake the analysis of the data harvested. NH suggested that the data be made available via Data First to accredited researchers to analyse and produce research from the ONS secure service. NG suggested that the greater the number of people who can access the data then the more innovative people can be with it and so the more interesting the research will be.
17. Mostyn J queried when there would be sufficient data available to allow an analysis thereof to produce meaningful, and statistically reliable, results. NG suggested that a statistically significant number should be available quickly. NH urged caution, which was shared by other members of the working group, that care will need to be taken in ensuring that decision-making does not take place on the back of too little data and that there would be a risk of skewing the data and/or diminishing confidence in the data if analysis were done of too limited a sample.
18. **Resolution (1) (proposed by Mostyn J):** The MoJ, by the time of the next meeting are to produce a paper as to the technical specifications of harvesting the contents of the Form D81s including not only what is needed technologically but also what the cost is likely to be and whether it is to be made available.
19. **Resolution (2) (proposed by Mostyn J):** EH and NB to prepare, by the time of the next meeting, a short three/four-page paper on what they consider should happen to the data from the Form D81s once harvested and what they recommend as the best way forward.
20. The contested cases
21. As to the contested cases, the working group agreed that there are greater challenges in relation to how usable data can be harvested as, at present, there is a different set of data available (in the form of an order and, potentially, a judgment) unlike in the consent order cases where Form D81 is completed in every case.
22. There was a discussion about whether members of the judiciary should be asked to fill in a form at the end of a contested case from which data about the contested case could then be issued. There was consensus that careful consideration would be required any action on this issue should be taken in light of the additional burden such a course would place on members of the judiciary (which would consulting with *inter alia* the Association of Her Majesty’s District Judges). Ultimately it was agreed, however, that no approach needed to be made to the relevant judicial bodies at this stage before there was a clear proposal in place as to what may/may not be sought.
23. NB suggested that it would be useful to have a discussion with the Data First team to understand what broader case records are held on the contested cases and whether any use could be made of the data contained thereto.
24. There were no specific resolutions proposed or made in respect of the contested cases.
25. **Concluding comments**
26. The date of the next meeting was agreed as being 19 May 2022.
27. HHJ Greensmith requested that the minutes reflect the working group’s gratitude to Mostyn J for the way in which he has driven the project forward.

**The meeting ended at 5.36 pm.**

Resolutions:

**In advance of the meeting on 19 May 2022:**

1. **AL (on behalf of HMCTS) to prepare a report on what they consider is achievably technologically for harvesting reliable data from Form D81s and the cost to it.**
2. **EH and NB to prepare a short three/four-page paper on what they consider should happen to the data from the Form D81s once harvested and what they recommend as the best way forward.**