

TRANSPARENCY IMPLEMENTATION GROUP

MEDIA REPORTING SUB-GROUP

18 JANUARY 2022 at 4.30pm

Attendees:

Mrs Justice Lieven (Chair)

Jack Harrison (Secretary)

MoJ Policy

MoJ Legal

DfE Policy

Judicial Private Office

The Family Justice Young People's Board

Lisa Harker (NFJO)

Sian Harrison (PA Media)

HMCTS Operational

Lucy Reed (Barrister)

Dr Julie Doughty

Olive Craig (Rights of Women)

Angela Frazer-Wicks (Family Rights Group)

Dr Natalie Byrom

District Judge Adem Muzaffer

Guy Vassall-Adams QC

Rachel Anderton (Cafcass)

1. Apologies

Apologies were received from Charles Hale QC.

2. Pilot areas

The President of the Family Division had recommended two or three pilot areas (including both urban and rural); there was a need to avoid reporting in communities where there was a high probability of the easy identification of parties; there was also a wish to avoid selecting areas which would put a strain on courts or local authorities.

Mr Justice Francis (the Family Division Liaison Judge for Wales) had suggested that one of the pilots could take place in Wales. A possible option was for two pilot sites in England and one in Wales. There was a need to decide the mechanism for selecting pilot areas, i.e. either via an Expressions of Interest exercise (EoI) or by direct discussion with Designated Family Judges (DFJs). The criteria used would be as set out in paragraph 2.1 (of the paper which was distributed prior to the meeting).

The following points were made/discussed:

- There was a need to clearly identify what the group was seeking to learn from the pilots, this would help identify the most appropriate locations as well as the recruitment process.
- There might be greater benefit in running a pilot in an area which had challenges across the family justice system, rather than, for example, the court with the highest disposal rates; this could impact upon media attendance at the court.
- It would be useful to have a pilot in Wales in order to gain an understanding of potentially different practice issues and differing legislation.
- There could be benefits in having a pilot in a DFJ Area which had a number of local authorities i.e. to facilitate information sharing and learning between local authorities; these DFJ Areas might also contain localities where easy identification was/was not a major issue.
- Pilot locations would need to take into account the impact of geography on the willingness of the media to report proceedings; it would be useful to approach the Media Lawyers Organisation to further discuss this.

Action: Group members to send suggestions for pilot areas to Mrs Justice Lieven and Jack Harrison who would then approach the relevant DFJs.

3. Training

Prior to the launch of the pilot, in-house training would be required for judges, lawyers, media organisations and bloggers. The following points were made/discussed:

- The training would need to also address the cultural change which transparency entailed.
- Family Court advisers and guardians would also need training so they could support and advise children.
- The FJYPB/parent representatives would have a key role.
- The training would be via a combination of face-to-face and video link.

4. Evaluation:

There was a need for independent evaluation to ensure that the aims of the pilot were assessed. The following points were made/discussed:

- The evaluation questions were key to understanding the success of the pilot; the key people would be asked open questions about how the pilot had worked, including any unintended consequences.
- MoJ could be approached to discuss resourcing the pilot, and in relation to capturing the shared learning from the private law pilots' evaluation.
- The timeframe would make it difficult to pick up risks that could materialise later e.g. understanding the longer-term impact on children, as well as testing the effect of transparency on the confidence in the family justice system, and confidentiality for children/families.
- Some of the work of the other sub-groups could be incorporated within the pilot e.g. data collection or anonymisation/gisting of judgments.

Action: Mrs Justice Lieven, Lisa Harker, Natalie Byrom, Lucy Reed and Judicial Private Office to meet and further discuss the aims and evaluation of the pilot

Action: Judicial Private Office to approach MoJ to discuss the scope for evaluation of the pilot.

5. Aims of the pilot

The following points were made/discussed:

- Whether Para. 1.3 in the paper provided reporters with sufficient information to decide whether to report cases in the first place?
- Within the time and resources available how would the pilot capture the range of potential unintended consequences?
- In addition to testing the facilitation of reporting, how would you test the balance between confidence in the system, and confidentiality, effectively?

- Whether there was a need to test the factors which influenced the media's desire to report?
- That the aims should not be too expansive i.e. the focus would be on doing transparency safely (which required a clear definition) and well, and as an end in itself (rather than trying to test any potential increase in trust and confidence in the justice system, which is a longer term goal). However, there were tracker-surveys which could assess trust in the justice system, as well as other data tools which could be used within the pilot.
- There would be challenges including pressing timescales, the potential need for Rules /Practice Directions to ensure, for example, that the pilots did not contravene s.12 of the Administration of Justice Act 1960.
- That Para. 5.1(e) in the Paper created the potential impression that there should be an assessment of whether reports were a justified representation of what had occurred in court: this was not the aim.
- Social media presented challenges which would require careful thought. One option was to ask media organisations not to put these cases on their social media pages and to, for example, disable comments on their websites. Parents would need guidance on the amount of data that they could put on their social media sites; there was a need to ensure that media organisations were not subject to more stringent, and potentially inappropriate, restraints than members of the public in this regard. There was a need to consider the interplay between traditional and social media.
- In the pilot courts there would be a short guide covering what families could share publicly; there were potential benefits in allowing families and victims of domestic abuse to tell their story - something similar had been produced for the Rowntree - funded pilot.
- Within the pilot there was a need to provide additional information when listing cases, e.g. by utilising descriptive codes; another option was the provision of case-description documents to media representatives.

6. AOB

A paper about the legal issues involved in implementing the pilots would be sent to the President of the Family Division's Legal Secretary, and then MoJ Policy and MoJ Legal, prior to being discussed at the next meeting.

7. Date of the next meeting

This would be at the beginning of March 2022.