



JUDICIARY OF  
ENGLAND AND WALES

# The Family Justice Modernisation Programme

Third update from Mr Justice  
Ryder

March  
2012

## Third update from Mr Justice Ryder

On 6th February, the Government published its response to the recommendations of the Family Justice Review. As expected, most of the recommendations were accepted and the response sets out clearly how the Government intends to implement its proposals.

The judiciary are involved in detailed discussions with Government and interested parties about those proposals which will no doubt lead to further announcements fairly soon. In this update I want to concentrate on the changes and improvements which the judiciary can bring about in the family courts. I am continuing to work closely with judicial colleagues and those across the family justice system to clarify how these achievements can be realised.

Since the publication of the Government response, I have begun to look in detail at some of what I hope will be 'quick-wins', that is those changes which we all agree should be made without delay and where changes in legislation may not be necessary.

Consensus continues to be my guiding principle with the intention of ensuring that all of our professional colleagues are carried with me as I develop the changes. In addition, the Judicial Office, which supports us in this project, has joined the cross-Government implementation team to ensure that our different initiatives and workstreams are complementary and cohesive. It remains my intention to announce recommendations by 31st July 2012, having first agreed them with the Family Procedure Rules Committee, the Family Justice Council, leadership judges, the Judicial Executive Board and HMCTS Board.

I have now spoken to all of these bodies and obtained their agreement to our continuing work. I will continue to use the expertise of the FPRC both in the development of ideas and to ensure that the detail of my proposals for change are consistent with the existing legislative framework. I have had considerable assistance from the FJC and from the many professional associations and bodies involved in the Faster Family Justice Group which is sponsored by the Law Society and includes all legal professional associations representing solicitors and the Bar.

We have achieved the following progress in relation to the 10 workstreams I announced in January:

### 1. Governance

The proposed national Family Justice Board is expected to be launched by Government in April 2012. This will be an executive decision-making body concerned with the measurement of performance. I am clear that the judiciary should be appropriately represented provided that the independence of the judiciary is protected by a Memorandum of Understanding with Government. I am continuing to discuss the judicial contribution to Local Family Justice Boards and the terms of reference of these new bodies.

### 2. Management Information

Following considerable work by and with HMCTS, I am now confident that it will be possible during 2012 to provide reliable data from court hearings and about the volume and type of work that takes place in the family courts. This information is essential for leadership judges to improve performance and to contribute to effective business plans for the best use of our resources. The new data collection and reporting systems will be the object of a national pilot beginning in April.

### 3. Training

The Judicial College Directors of Studies are already engaged in the planning of training and on 20th March 2012 we hope to agree a launch programme and a continuing education plan for the changes. We urgently need to identify funds for inter-disciplinary training opportunities and will make a bid to Government for the College's additional training obligations. It remains my view that training materials should be available to all and that they should be consistently used by everyone involved in the family justice system.

#### 4. Unified Family Court

We expect government to create a statutory Family Court within the next year. The work to be reserved to the High Court (as distinct from High Court Judges sitting in the new Family Court) is agreed. The status of London including the PRFD as a specialist centre is under discussion. New Standard Operating Procedures are being drafted by HMCTS in collaboration with the judiciary for the new Family Court. The extent of implementation of the existing unified family administrations is being scrutinised by us.

#### 5. Judicial leadership and management

A consensus exists as to how the new Family Court will be locally managed locally by Designated Family Judges using Judicial Leadership and Management Groups which will permit magistrates and their legal advisers to be integrated directly with their judicial colleagues under the leadership of DFJs. National leadership and management of the new court is the subject of continuing discussion.

#### 5. Judicial deployment

Docketing guidance is agreed with the JEB i.e. an expectation that there should be continuity of case management by judges and case managers. There is a consensus about patterning guidance to be issued in the terms of the President's indication (not less than 40% for judges and legal advisers who should not be away from their public law based court for more than a month at a time). Mixed ticketing protocols already exist but will need to be disseminated nationally and best practice listing guidance will be necessary.

#### 7. Gatekeeping and allocation

I am recommending that gatekeeping teams for the new Family Court undertake allocation of work under the direction of the DFJ. The teams will consist of a specialist family legal adviser, a specialist family DJ(MC), where available, a public law authorised district judge and a section 9 public law authorised circuit judge. The team will be asked to appoint a coordinator who in practice

will make most of the allocation decisions subject to monitoring for consistency by the team. The right to a review of an allocation decision by the DFJ should be preserved. Gatekeeping for the High Court has yet to be considered.

#### 8. Case Management

I am recommending evidence-based plain language pathways which set out the expectations the court has of the parties and the expectation the parties may have of the court as to how family cases will be managed. There will be pathways describing important case management steps or components such as

- Local Authority Pre-proceedings work
- Timetable for the child
- Social work evidence and Cafcass/CCymru evidence
- Key issue identification
- Threshold
- Use of experts
- Placement options

The Public Law Outline and the Private law Programme practice directions will need modification in due course.

A statement of inquisitorial principle is being considered.

The single most important change that I recommend is the creation of standard and exceptional case tracks with guidance in the form of a pathway that describes how some cases can and should be completed within 26 weeks.

#### 9. Experts

I have identified this area as one of the 'quick-wins' described above. I am working closely with Government lawyers and the FPRC to identify rule and/or Practice Direction changes to give more clarity about when it is

appropriate to appoint an expert and to ensure that the work commissioned from experts is necessary and relevant to the issues to be decided by the court.

## 10. External services

Documents are to be drafted setting out the services the new Family Court is entitled to expect, including but not limited to:

- In court administration
- Court social work
- Mediation and ADR
- Contact services

- Safeguarding
- Testing by commercial organisations
- Lay representation and support in court.

I hope that service providers will continue their discussions with me to lead to agreed descriptions in each of these areas.

It is in the nature of the detailed style of the extensive discussions we are having that some of these recommendations will develop and change over time. Reliance should not yet be placed on any one recommendation while we develop changes across the whole system. Anyone affected by a proposed change is warmly invited to contribute by contacting the team at [familymodernisation@judiciary.gsi.gov.uk](mailto:familymodernisation@judiciary.gsi.gov.uk).