

Family Procedure Rule Committee
Annual report 2005-06

Annual Report 2006

This annual report of the Family Procedure Rule Committee for 2006 includes references to rules made during the period of the report, its terms of reference, membership and dates of meetings.

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Terms of reference

1. The Family Procedure Rule Committee (“the Committee”) is an Advisory Non-Departmental Public Body sponsored by the Department for Constitutional Affairs. Its function is to make rules of court governing the practice and procedure in family proceedings in the High Court, county courts and magistrates’ courts. Its power to make rules is to be exercised with a view to securing that the family justice system is accessible, fair and efficient and the rules are both simple and simply expressed. Before making rules the Committee must consult such persons as it considers appropriate and meet (unless it is inexpedient to do so).

Background

2. The Committee was established in 2004 in accordance with the provisions of the Courts Act 2003. To date, the power of the Committee to make rules has been brought into force only in regard to matters relating to adoption.

Membership

3. During the period of this report, the committee comprised the following members:

The Right Honourable Sir Mark Potter, President of the Family Division (Chair)
The Right Honourable Lord Justice Wall (Deputy Chair)
The Honourable Mr Justice Charles – High Court judge member
Her Honour Judge Angela Finnerty – circuit judge member
Senior District Judge Philip Waller – district judge (PRFD) member
District Judge Duncan Adam – district judge (county court) member
District Judge Katharine Marshall – district judge (magistrates’ courts) member
Martyn Cook JP – magistrate member
John Baker – justices’ clerk member
Jane Probyn – barrister member
Charles Hyde QC – barrister member
Susan Jones – barrister member
David Salter – solicitor member
Bruce Edgington – solicitor member
Clive Redley – solicitor member
Mike Hinchliffe – CAFCASS nominated member

District Judge Katharine Marshall, Susan Jones and David Salter were re-appointed to the Committee (their previous terms having expired) in October 2006.

Remuneration

4. The Chair and members are not remunerated for their service on the Committee.

Meetings

5. The Committee met on 6 March, 3 April, 5 June, 3 July, 4 October, 6 November and 4 December 2006.

Working parties

6. The Committee has established working parties to develop draft Family Procedure Rules relating to different aspects of family proceedings. The working parties include individual co-opted members with particular expertise in the relevant areas of family procedure, as well as members of the Committee.

The working parties and their terms of reference are:

(i) The Children's Proceedings Working Party

"To examine and make recommendations about the manner in which the current provisions for the conduct of proceedings relating to children may best be adapted to and incorporated in the Family Procedure Rules and in particular to consider:

- (a) the extent to which the provisions of the Civil Procedure Rules (CPR) may be applied or adapted to children's proceedings;
- (b) whether provisions contained in existing guidance or protocols are to be incorporated in rules or practice directions or set out in some other form;
- (c) whether the provisions of the rules should be extended to include procedural matters beyond the scope of the current rules (e.g. mediation); and
- (d) rationalising the procedures for children's proceedings across all levels of court."

(ii) The Experts Working Party

"To examine current guidance on the role and instruction of experts in family proceedings with a view to considering whether a composite protocol can and should be formulated for inclusion in the Family Procedure Rules."

(iii) The Financial Proceedings Working Party

"To examine the extent and the manner in which the provisions of the Civil Procedure Rules (CPR) may be applied or adapted to financial and property proceedings and to make recommendations for (i) incorporating and harmonising the relevant provisions of the CPR in formulating rules relating to financial and property proceedings and (ii) rationalising the procedures prescribed for financial and property proceedings across all levels of court."

(iv) The Rule Harmonisation Working Party

“To examine the extent to which and the manner in which the provisions of the Civil Procedure Rules may be applied or adapted to family proceedings and to make recommendations for incorporating and harmonising the relevant provisions of the CPR in formulating Family Procedure Rules.”

Each working party has held meetings throughout the year and has reported back to the Committee regularly with recommendations, where appropriate.

Draft Family Procedure Rules

7. Within the period of this report core draft Family Procedure Rules have been developed in relation to a number of areas of family proceedings, including:
- matrimonial and civil partnership proceedings
 - proceedings relating to children
 - financial proceedings
 - declarations under the Family Law Act 1986.

Family Proceedings Rules

8. Pending the bringing into force of its full rule-making powers under the Courts Act, rules in relation to family proceedings in the High Court and county courts continue to be made under the provisions of s.40 Matrimonial and Family Proceedings Act 1984. Those appointed to make such rules are drawn from the Committee. With effect from the 3 April 2006 they do so as members of the Family Proceedings Rule Committee.

During the year the Committee has considered, and those members appointed under s.40 have made, amendments to the Family Proceedings Rules 1991:

- to make new provisions about the costs of ancillary relief proceedings;
- to provide for the issue of a full gender recognition certificate to a person who has been a civil partner in similar terms to that provided in relation to a person who has been married;
- to amend the provision relating to the documents that need to be sent to the court when the court is considering an application for a consent order in ancillary relief proceedings which includes an order in relation to pension sharing;
- to provide for information to be given by the party with pension rights to the other party where there is an application for ancillary relief which includes an application for a pension sharing order or a pension attachment order where the Pension Protection Fund is involved with the pension arrangement; and
- to make provision consequential on the commencement of the Child Abduction and Custody Act 1985 (Jersey) Order 2006 which modifies the 1985 Act so as to extend to Jersey provisions applying between the United Kingdom jurisdictions.

The amendments were made by the following statutory instruments:
2006 No. 352 (L.1) – The Family Proceedings (Amendment) Rules 2006
2006 No. 2080 (L.8) – The Family Proceedings (Amendment No.2) Rules 2006

Open meeting

9. In line with its commitment to openness in its working practices, the Committee held an open meeting in April; the first such meeting held by any DCA sponsored rule committee. Those attending observed the business of the Committee and were afforded the opportunity to put questions to the Committee.

Contact

10. Updates on the Committee's work may be viewed on the family procedure rule committee webpages.

Any queries about the work of the Committee may be addressed to:

Clive Buckley
Secretary
Family Procedure Rule Committee
Selborne House
54-60 Victoria Street
London SW1E 6QW

Clive.buckley@hmcourts-service.gsi.gov.uk