

## HM Courts and Tribunal Service issues a new guidance concerning media reporting of family court proceedings

18/12/2018

**Family analysis:** HM Courts and Tribunal Service (HMCTS) has issued a family court guide which sets out which hearings are open to the press and what information or documents can be provided to accredited media representatives. Charlotte Georges, barrister at 36 Group chambers, looks at the revised guidance and comments on its likely impact on family law practitioners.

### Original news

HMCTS courts and tribunals media guidance released for staff, [LNB News 24/10/2018 121](#)

*HMCTS has released guidance for its staff to help encourage and facilitate media access to the UK's courts and tribunals. As attendance and reporting of proceedings by the media helps the justice system maintain its principle of openness and transparency, the guidance aims to help staff 'provide the best possible service to what is an important professional court and tribunal user group'.*

### What is the purpose of the media guidance released to HMCTS staff?

The purpose of the guidance is to ensure that all employees of HMCTS are aware of the rights of accredited media representatives to attend court hearings in family proceedings and seek information or disclosure of documentation regarding such proceedings. Further, the guidance seeks to ensure that all staff are aware of which type of proceedings journalists are entitled to attend and which they are not. It also provides clear guidance as to what information regarding proceedings can be disseminated and reminds the court staff of the importance of information regarding proceedings within the court building complying with such requirements, including, in particular, the daily cause lists.

### Which family proceedings does the guidance apply to?

The guidance sets out to which family proceedings the presumptive right applies and which hearings are not open to the media. It sets out further the circumstances in which the press may have access to those proceedings which are heard 'in private', following representations made to the court.

Hearings which are not open to the media are:

- placement and adoption order hearings
- financial dispute resolution hearings
- some first hearings in private law children proceedings
- judicially assisted conciliation meetings
- any hearings where the judge has previously decided that the media should be excluded from the entire proceedings or for that particular hearing

All other hearings in chambers or courtrooms (including those to be heard 'in private') are open to the media unless a judge decides to exclude them.

### What do family practitioners need to be aware of?

Practitioners are reminded by this guidance of the presumption in favour of journalists attending family proceedings at all levels. The guidance reminds all of the right of the press to attend those hearings that are to be 'heard in private' unless a judge specifically decides to exclude them.

Where proceedings are to be held in private, the guidance reminds practitioners of the need to ensure that the journalist is an accredited media representative which can only be demonstrated by production of a UK press card or a letter from the journalist's editor to confirm his or her identity.

In respect of documentation, the guidance sets out very clearly that the only document that may be provided to the media is the cause list. If a request is made to see any other document, such a request can only be decided by the court and is not something open to be agreed between the parties.

For those practitioners who undertake public law children work, the guidance reminds them that the accessibility of the press to such proceedings changes automatically following any application for a placement or adoption order. Following such an application, the presumption of accessibility is removed and the proceedings become closed to the press.

When considering any request for information from the press, the guidance reminds practitioners of the important consideration to be made as to whether the information requested by the media relates to identity information or information about the details of the case. Restrictions apply to all requests for information which identifies children who are involved in proceedings. In respect of requests for information relating to case details, different and less restrictive rules apply and the guidance provides a list of specific information about a case that may be provided.

## **How does the guidance fit in with other developments in relation to reporting restrictions and transparency in the Family Court?**

The former President of the Family Division, Sir James Munby, highlighted the need for greater transparency in the family justice system. Five years later, this new guidance demonstrates the continued desire to achieve better access to and transparency within family law proceedings. It aims to remind practitioners and ensure accurate awareness of the court staff as to the presumption in favour of access to proceedings, something still often forgotten and feared against.

The timing of such guidance coincides with a pilot scheme led by the Ministry of Justice and the judiciary, commencing on 1 October 2018 for a period of nine months. It will allow 'legal bloggers' (ie lawyers holding a valid practising certificate or working for a higher education institution or educational charity) to attend family proceedings in the family court and the Family Division of the High Court with a view to reporting the proceedings.

It can be taken from this current surge of guidance and pilots that the need for transparency continues to be as important as ever, with continued efforts being pursued to ensure a more transparent future.

Against this backdrop of transparency, the use of reporting restriction orders will continue to be available to protect those in need. The question now, however, is whether the use of such orders is affected as the principle for transparency grows stronger.

*Charlotte Georges specialises in children law proceedings acting in complex public and private law matters. She also undertakes cases involving abduction, those cases with international elements and wardship proceedings.*

*Interviewed by David Bowden.*

*The views expressed by our Legal Analysis interviewees are not necessarily those of the proprietor.*

**FREE TRIAL**