

**Transparency Pilot in Birmingham January 2024**

**A short guide for social workers**

* Following the Transparency Review in 2021 led by the President of the Family Division – Sir Andrew McFarlane made a series of recommendations to increase openness and public confidence in family justice, whilst maintaining confidentiality for the children and associated parties.
* This led to a Transparency Pilot being launched in 3 areas a year ago, in January 2023. From January 2024 it is being extended to most courts, including all Family Courts in the West Midlands, including Birmingham.
* In preparation for this we have spoken to the authorities that have been involved in the pilot over the last 12 months and they have all said that it has been fine and most considered that it was helpful for people to understand what we were dealing with. So the message from all of them was not to be alarmed by this change.
* Aim of the reporting principle is to introduce transparency into the family court.
* Confidence in the family justice system is fragile. Transparency is at the heart of accountability. The more transparent we are, the more people will understand what we are doing and confidence will grow.
* Reporters can report on what they see and hear in court, subject to protecting the child and family’s anonymity.
* Only accredited media/reporters (with a press card) and legal bloggers can take part in the pilot and report.
* Press can attend any hearing, in person or remote. They are strongly encouraged to notify the Court in advance but they don’t have to.
* A Transparency Order (‘TO’) will have to be prepared by our solicitor or barrister. The order will define the limits of what may or may not be reported. The court must consider making a TO in any hearing where a press representative attends and asks to report what they see and hear. The court always retains the discretion to prevent reporting, or to vary the standard TO – e.g. where there are linked criminal proceedings, or where it may be easier to identify the child or family – ‘jigsaw identification’.
* The pilot will cover all applications for public and private law orders and applications to discharge, vary or enforce existing Orders. As well as all applications for placement orders where the application is made within care proceedings & all applications under the inherent jurisdiction of the High Court, including applications to authorise the deprivation of a child’s liberty. This can also include non-compliance hearings.
* Special consideration will be given to whether a TO should be made in:
* Cases where matters relevant to the case are subject to criminal charges, investigation or proceedings, where reporting may cause prejudice to those proceedings;
* b. Applications that are made without notice, where reporting and or/publication of the hearing or facts would cause prejudice to the applicant.
* c. Cases where it is particularly difficult to achieve anonymity for the child.
* d. FDAC cases, and in particular hearings where there is no legal attendance.
* The LA, the director and assistant director of Childrens Services, any NHS trust, court appointed experts, the legal representative and judges, can all be named by the press in any report.
* The press cannot report the names of:
* parents, family members who are parties, which may lead to identification of the child.
* Address of child or family members.
* Names/address of foster carers.
* Schools or hospitals where children attend or are registered.
* A photo of the child, parents, or carers.
* In sexual abuse cases the details of the abuse, subject to the court’s discretion.
* Normally not social workers, including the team manager, or those working directly with the family. The treating doctor, CAFCASS Guardian or Family Court Advisor.
* The TO will permit the release of certain documents, including documents drafted by advocates e.g. case outlines, position statements and skeleton arguments, and indices from the court bundle. The reporters can apply for release of further documents. They must not ‘quote’ from documents not released and the documents must be provided by the person who has drafted the document.
* The reporting principles are:
* To assist the court to achieve the Overriding Objective in FPR 1.1, which is *to resolve cases justly having regard to the welfare issues involved.*
* To minimise disruption to the proceedings, and by raising issues in advance of hearings in writing with the court and the parties, where possible.
* To work constructively with the parties.
* To be sensitive to the feelings and possible vulnerabilities of parties int eh family court and at all time act with appropriate discretion. Reports must not interfere with pre-hearing discussion.
* If the party has a lawyer, any interview request must be made through that lawyer.
* Guidance has been produced for parents, a copy is attached for your information.
* More detailed information is available at :
1. The TIG website [Transparency Implementation Group - Courts and Tribunals Judiciary](https://www.judiciary.uk/about-the-judiciary/our-justice-system/jurisdictions/family-jurisdiction/transparency-implementation-group/).
2. The Transparency Review [Confidence and Confidentiality: Transparency in the Family Courts (judiciary.uk)](https://www.judiciary.uk/wp-content/uploads/2022/08/Confidence-and-Confidentiality-Transparency-in-the-Family-Courts-final1.pdf).
* Examples of reporting over the last year:

Lieven J spoke on Radio 4 about this project and the Today programme did a mini-series following 3 or 4 cases in Leeds which are quite interesting and short to listen to. There is link here which has links at the bottom of the article to these podcasts. [Almost half of family courts to allow reporting in England and Wales - BBC News](https://www.bbc.co.uk/news/uk-67940107)

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