



/guide

Your questions answered

TRANSPARENCY PILOT IN THE FAMILY COURT

The purpose of this client guide is to provide context and detail around the transparency pilot currently ongoing in some family courts in England and Wales.

This guide will give background information as to why the pilot has been introduced, and what clients attending court might expect to see, answering some key questions about how and when reporting can take place.

In January 2023, the Government announced a transparency pilot that would go live in a limited number of family courts in England and Wales. In these courts, accredited journalists and 'legal bloggers' were allowed to report on what they saw and heard in court.

All reporting had to protect the anonymity of any children involved. The rules of each individual case were set out in a

'Transparency Order', which was made by the judge at the beginning of the hearing.

After a successful year, the pilot has been extended as of 29th January 2024 to number of other courts in England and Wales.

Background to the Transparency Pilot

For some years there has been a debate about whether there should be more transparency in the family courts. Many judges have felt that it would boost public trust in the family courts if people had more knowledge about what happens during family proceedings.

Accredited journalists and legal bloggers have been allowed to attend certain hearings in family courts for some years now, but they could not report on what they saw and heard without specific permission from the judge; and it has been rare to encounter the attendance of reporters in court in practice.

In addition, the people involved in the proceedings have been forbidden from talking to reporters and journalists about them.

What happens if a reporter does attend my hearing?

If a reporter does attend, the judge will make a “transparency order” which sets out what can and cannot be reported.

Generally, the transparency order will say that reporters can report the details of your case and case documents, and what has happened at your hearing. The transparency order will give more detail about which people, places, and organisations can be named and which ones must not be named. The judge dealing with your case may adjust the transparency order to make sure it is appropriate for your family.

Reporters cannot include:

- the names of any children or family members involved;
- the places that the children live or go to, for example, their school;
- the dates of birth of any children;
- photographs of you or the children.

Sometimes an order will include other things that must not be included in reports, to make sure that your family cannot be identified by accident.

What is a “reporter”?

The only people allowed access to report on your case are journalists with a UK Press Card, or a lawyer who is not involved in the case but is authorised to attend hearings just like a journalist (also called a legal blogger). This prevents any member of the public or person with an interest in your case coming to your hearings under the guise of being a journalist.

Will we know in advance if a reporter is attending?

Reporters are encouraged to give parties and the court advance warning of their intention to attend hearings, however this is not mandatory, so it is possible you would not find out until you arrive at court.

If this does happen, you will have time to consider with your lawyers whether you wish for them to make any representations to the judge about the proposed reporting and to have discussions with the journalists involved.

Which hearings are reporters able to attend under the scheme?

Reporters can attend most family hearings except for those in which there is judge-led conciliation or negotiations.

This means that in financial remedies proceedings a reporter will be able to attend all hearings except for the Financial Dispute Resolution hearing.

In proceedings relating to child arrangements this will vary from case to case, depending on the nature of the issues involved. In addition, there are some other specific hearings, (for example some types of adoption hearings) which reporters may not attend.

Can we prevent reporters from reporting on my case?

If you don't want your case to be reported, you or your lawyers, if you are represented, will be able to tell the judge that before they decide, but you cannot opt-out without the judge agreeing.

When a judge is deciding, they will think about all the circumstances of the case and balance the things you are worried about with the aim of making the family court's work more open. The judge will then tell you whether they will:

- allow your request, and stop all reporting;
- change the transparency order, so that less information can be reported;
- leave the transparency order in place.

If you are particularly worried about the possibility of your case being reported you should discuss this with your lawyers. You may decide to explore non-court dispute resolution, for example arbitration, which would take place in private with no risk of reporters attending.

However, processes like this are voluntary and can only proceed if both parties agree to follow this route and “opt-out” of court proceedings.

What documents can reporters see?

The journalists can only see the basic case documents which explain what the case is about and what the parties' positions are.

If they want to see anything else, such as a report from a social worker or a report into your pension, then they must ask the judge for specific permission.

Will I be able to talk to the reporters?

If your case falls within the pilot scheme and a Transparency Order is made, it will be possible for you to talk to any journalist or legal blogger reporting on it. You should be aware that if this happens, the other party will also be able to speak to the reporter, and you or your lawyers will not be able to prevent this.

You do not have to speak to a reporter unless you want to. It is up to the reporter to make sure that whatever they include in their report is allowed to be published. You are not allowed to share any court documents with a reporter apart from the documents listed above, or where the judge has said that this is permitted.

It is very important for you to be aware that even if your case is reported on, your own duties of confidentiality remain in place.

You may discuss your case with your lawyers, the other people involved in the case, and any experts or CAFCASS officers involved; you may also discuss the case with close friends or family but only for the purpose of obtaining confidential advice to help you present your case or to get support during proceedings - any discussions between you and the person you ask for the advice or support must remain private.

Even if you do decide to talk to a pilot scheme reporter, you must not publish or share details about the proceedings or post information online and on social media. This includes re-publishing any media articles or blogs written about the case under the pilot. If you publish anything about the case, you could be breaking the law.

Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit **www.stowefamilylaw.co.uk**



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