



Court of Protection

Minutes of Court User Group Meeting
Wednesday 12 October 2016 2.00pm
Queens Building – Conference Room

Terms of Reference

The purpose of the Court User Group is to provide a forum for discussion for matters causing concern for Court Users and views and comments on policy issues.

These minutes may be widely disseminated.

Attendees

District Judge Glentworth (Court of Protection -Chair) (DJG)

Lorna Green (Delivery Manager- Court of Protection) (LG)
Heather Feast (Delivery Manager- Court of Protection) (HF)
Emily Smith (Team Leader, Judicial Support – Court of Protection)
Gillian Jurd (Technical Advisor – Court of Protection)
Lise Wall (LW)
Sarah Robson
Urmla Breeze
Naomi Lopez (NL)
Julia Lomas (Solicitor – Irwin Mitchell) (JL)
Lucy Nichol (Solicitor – Slater & Gordon)
David Rees (Barrister - 5 Stone Buildings) (DR)
Martin Terrell (Solicitor – Thomson Snell & Passmore)
Jane Faulkner (COPPA JMW Solicitors)
Duncan Boulton (DB)
Elaine Brown (Solicitor-OSPT) (EB)
Liz Jeary (Court Funds Office) (LJ)
Janet Lee (JL)
Yvonne Mitchell (ADAP) (YM)
Neil Cawthorne (Solicitor PDS)

Apologies

District Judge Susan Jackson (Court of Protection)
Joanne Earley (Court Manager – Court of Protection) (JE)
Thirza Mullins
Alexander Elphinston (Solicitor – Anthony Collings)
Caroline Bielanska (Solicitor – Legal Consultant)
Holly Mievill-Hawkins (Solicitor - Foot Anstey)
Hugh Jones (Solicitor – Hugh Jones Solicitors)

Paul Greatorex (Barrister -11kbw)
Christine Bunting (Chartered Legal Executive – Hyphen Law)
Eddie Fardell (Solicitor – Thomson Snell & Passmore)
Sean Smith (STEP)
George Hodgson (STEP)
Janet Ilett (Solicitor – Official Solicitor)
Alison Taylor (Frankel Topping)
Caroline Bielanska (Solicitor)
Helen Starkie (Solicitor – Helen Starkie Solicitors)
Joan Goulbourn (MoJ Policy team)
Lynne Coombes (Deputy Bond Services)

District Judge Glentworth explained that she was ‘standing in’ as Chair following the retirement of Senior Judge Lush.

Minutes and action points

The minutes were read and agreed.

JL raised her concerns, seconded by other attendees at the meeting, that there were a number of outstanding action points from previous meetings which the Office of the Public Guardian had agreed to address. JL voiced her disappointment that there was no representative of the OPG at the meeting. DJG clarified the position, which is that the meeting is for court users. It is not the appropriate forum for raising concerns about the operation of the OPG.

JL wanted the minutes to reflect the request of the meeting that the OPG should send a representative to future meetings.

Concerns were raised about the notification of the date of the meeting. It was recorded that the date was fixed at the conclusion of the meeting on 6 April 2016 and included in the minutes which were distributed to all, including those not present at the meeting, on 13 April.

Court Manager’s report

HF apologised on behalf of Joanne Earley, the Court Manager, who could not attend and delivered the report on her behalf as follows:

Issue volumes

- There has been a 9.8% increase in the volume of applications received in the 6 months to August 2016 (15,238 applications were received compared to the 13,749 applications received in the previous 6 months). The trend over the last six months has remained steady with an average of 2,540 applications received each month
- There has been 5.6% increase in the volume of applications issued when compared to the same six month period. The total volume of applications issued within the five day target in August was 89.17% against the target of 95%. This is also an improving trend over the last six months.
- There has been a steady upward trend in the volumes of Deprivation of Liberty (DoL) applications received in all types (Section 16, Section 21a and Re X) During August there were 51 S16, 87 S21a and 135 Re X applications.
- The volume of outstanding applications shows a continual downward and improving trend. In August 85 applications remained outstanding compared with the previous month of 101 applications outstanding. The age of the outstanding applications remains steady for both July and August at 14 days.
- The volume of applications returned in August increased to 439 from 391 in July. This continuing upward trend will be investigated in more detail to understand, analyse and identify improvements to reduce the volume of returned applications.

Timeliness

- The average weeks to disposal continues to show an improving and downward trend for disposal of cases by Judge and Authorised Court Officers, for Property and Affairs (P&A) Deputyship, other P&A and Health & Welfare (H&W) cases against the current measure of 16 weeks.
- Outstanding box work (i.e. work dealt with by the Judges on the papers) continues to remain at low levels over the last two months. This is attributed to the sittings of visiting judges during this period. This has resulted in lower volumes of box work waiting to be dealt with by judiciary but has led to an increase in the work generated to be disposed and despatched from the office and therefore fluctuations in work flow are impacted.
- There were 2,413 orders issued during the month of August 2016 which equates to 77.83%. This exceeded the measure of 75%. This measure has been consistently met during the last six months save for June where it was narrowly missed.

Overall Workload Trends –

Performance at First Avenue House has increased with the higher volume of applications being received, processed and orders made. Additional staff resource within teams is allocated as required to help maintain the flow of work.

Discussion:

- JL raised concerns that her firm had been issued with orders too late to serve them in a timely fashion. She had emailed the details of these to JE with a request that this be looked into. This had not yet been acknowledged.
- JL also wished to complain about occasions when her firm was acting in the early stages of a potentially large damages claim and applied for the appointment of a deputy supported by a COP24 but was asked by judges at FAH to file further evidence which she felt duplicated evidence already filed. DJG said she was unable to comment on issues in relation to orders made in the course of an application.
- A complaint was also made regarding delays in the issue of applications. LG said that the oldest arrears were 5 days but the court aimed to issue urgent applications on the day of receipt.
- There was also a concern about delays in the Official Solicitor being informed, which made it difficult to attend. LG requested that any specific examples concerning orders issued by FAH should be sent to her (lorna.green@hmcts.qsi.gov.uk) for her to check the position.

Regionalisation

- LW introduced herself and said she had taken over as lead from Emma Petty. Her team is currently monitoring the number of Court of Protection sitting days in the regional courts
- The Case Management pilot is in its early days so it is difficult to assess its impact, but so far it seems to be working well.
- Each region has put together a business case for additional judicial resources, which will be drawn from a wider pool, including tribunal judges. There is also a data capture exercise being undertaken with respect to the need for additional administrative resources in the region to inform the decision making process.
- The team is also investigating giving the regional courts access to the Court of Protection computer database (CASREC) which will require more user licences. Discussions are taking place with OPG, whose system it is.
- Consideration is also being given to the introduction of electronic seals, as used in other parts of the Court Service. This proposal is currently with the President. LJ asked that she be included in the discussions, as this would impact on the Court Funds Office.
- The acceptance of credit and debit cards to pay fees is also under consideration.
- There is also a review of the current fee account system.

Court of Protection fees and costs

- NL explained that a number of Rule changes were being looked at but had not yet received approval. In respect of the Mental Capacity Act, these were changes to Practice Directions 9E (serious medical treatment), 10AA (deprivation of liberty) and 13A (reporting restrictions).
- JL was concerned that there was still no decision in respect of fixed costs and this was reinforced by the Group. This had been an issue for several years and is now with the President to be signed off.
- The revision of Court of Protection fees payable on applications is also under consideration but has no timescale for a decision.

Transparency pilot

- NL said that the transparency pilot had now been extended to the end of August 2017 and asked for any comments.
- The process has required some amendment.
- DJG highlighted a particular issue which has arisen in relation to the procedural requirements for committal hearings because of the requirement that the hearing is in public and the contemnor named. If a decision is required in the case currently before the court it is likely that it will be listed before the President.
- Consideration is being given to how helpful the descriptors which appear on the cause list are but no decision has yet been taken to change them.

Revision of DOL10 form

- HF explained that the DOL10 form, used in *Re X* cases (the streamlined procedure) was being reviewed and was presently with the President. When this is approved, the introduction date will be set, together with a lead time, which will be published. Amendments were being introduced following the decision in *Re NRA* (Part 3A representatives) and to make provision for the authorisation of entry into tenancy agreements.
- EB raised the question of the appropriate application to be made where the order authorising the DOL was made in proceedings in which P was represented by the OS and included a mechanism for review. She was concerned that some local authorities had indicated that they considered that it was appropriate for subsequent applications to be made using the DOL10 streamlined procedure. She had prepared a paper, but there had not been time to circulate this, so it will be circulated afterwards for any comments.
- DJG said that if the order provided a mechanism for review the parties would be expected to use that mechanism.

Future structure and constitution of the Court User Group

- DJG said that this would be a matter which the new Senior Judge would wish to consider when appointed. However the group was invited to give some consideration to the matter now and put forward any proposals.
- Location - the conference room where the group usually meets has space constraints which limits numbers. There are parties who are interested in attending but have been unable to do so because of the limitation on space. The practice in other jurisdictions is for the meeting to be held in a courtroom and for there to be an open invitation to any interested party to attend and participate.
- Separate meetings for property & affairs and personal welfare – the question of whether participants would prefer two separate meetings was canvassed. The general consensus was that it was desirable to address both aspects of the court's work in the same meeting but it might be appropriate to consider grouping topics relating to one or other aspect of the court's work together so that people could decide whether to attend the whole meeting or only that part which was of particular interest to them.
- A suggestion was made that there be a joint OPG/court group, so that issues with the OPG could be aired.

(DB) said it would be helpful to be able to contact other members of the Group and it was pointed out that invitations, agendas and minutes are circulated to everyone, so the contact details are there.

(DJG) asked that any suggestions for the future of the meetings be forwarded to Joanne Earley (joanne.earley@hmcts.gsi.gov.uk) or Heather Feast (heather.feast@hmcts.gsi.gov.uk). (JL) suggested that it may be better for the Group to consolidate a joint response, rather than individually.

Any other business

(DJG) explained that the closing date for the application for the new Senior Judge had passed but the Court of Protection Judges had been advised that a decision was unlikely before February 2017. The time before the appointee would be in place would depend on any notice etc they may need to give.

The question of the change of Bond provider, to Howdens, was raised. There was an issue with the leaflet not being included with the letter, which was probably a teething problem, but more significantly, the implication of the letter was that the Bond had to be applied for on-line and this would be an issue for many lay deputies.

(LG) explained that Howdens do provide a phone number in the letter for lay deputies. On phoning, the firm will go through the process with the applicant and will send the forms direct. Howdens do not want the Court to hold copies of the paper forms for dispatch. There is also an issue with joint deputyships, which is being addressed.

(NL) asked for any comments regarding the case management pilot to be passed to her.

(YM) wanted to put on record on behalf of APAD their concerns about the delay in the fixed costs being approved and in particular the items withdrawn in the revised draft. Her members were very dissatisfied.

(JL) said it would probably be appropriate for a representative of the Costs Office to attend the next meeting

Date of next meeting

Wednesday 26 April 2017 at Court 23, First Avenue House, 42-49, High Holborn,
London WC1V 6NP