



The County Court at Plymouth
The Law Courts
Armada Way
Plymouth
PL1 2ER
DX 98470 Plymouth 7
T 01752 677400
F 0870 324 0096
Eenquiries@plymouth.countycourt.gsi.gov.uk
Christine Murray Acting Regional
Delivery Director
Angle May Acting Area Court Cluster
Manager
Tim Smith B.A. Solicitor, Justices Clerk
Minicom VII 0800 358 3506
(Helpline for the deaf and hard of
hearing)
www.justice.gov.uk
Ref:

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Dear Family Court User

The government is running a pilot for settlement conferences in public law case in certain parts of the country. Devon is one of the areas selected.

Having considered what is involved in this pilot and having had a number of meetings and discussions the Designated Family Judge, Her Honour Judge Robertshaw, has decided it is necessary for some changes to be made to the way in which we have been implementing the Devon Settlement Conference pilot which commenced shortly before we were informed about the government's pilot. She has asked us to write to let you know about these.

PUBLIC LAW CASES

In the light of the new government pilot for settlement conferences and after consultation with family managers and listing teams in Devon we will be implementing a phased development of the settlement conference judicial team for public law cases. Initially there will be three settlement conference judges, HHJs Robertshaw, Horton and Melville QC. Settlement conference cases can be listed before these judges from any tier (from the family proceedings court, cases at District Judge, Circuit Judge and High Court level) Three days each month (one day for each settlement judge) will be set aside for settlement conferences before these judges. No cases other than settlement conference cases will be listed on these days unless there are no settlement cases to be listed. Two settlement conferences can be listed on each of these days

The number of cases referred for settlement conference will be reviewed at least monthly. It is anticipated that we will move to a second phase of implementation after a few months with one or more District Judges sitting as settlement conference judges. If the reviews indicate that we need to expand the judicial settlement conference team earlier, this will be done.

Those cases that are currently listed for settlement conference before other judges will now be listed before one of the three Settlement Conference judges unless it is a part heard settlement conference or unless it has already been listed for final hearing before a judge other than the settlement conference judge.

PRIVATE LAW CASES

All District Judges who have been trained as settlement conference judges can continue to take private law settlement conferences cases.

We attach Guidance for Parties which provides helpful information about settlement conferences in Devon and this pilot.

Her Honour Judge Robertshaw would like to thank everyone for their positive approach to settlement conference and wishes to encourage all parties in every case to consider choosing the route of a settlement conference> her Honour would welcome feedback about the process in due course, either directly to her or at the next LFJB and court users meetings.

Yours sincerely

HHJ Robertshaw

J Skaith

M Squire

Her Honour Judge Robertshaw
Designated Family Judge for Devon
Nominated Judge of the Court of Protection

Mrs Jan Skaith
Operations Managers
South and West Devon

Mrs M Squire
Operation Manager
North and East Devon

Settlement Conferences Guidance for Parties

Settlement Conferences

Devon is one of the areas where a new collaborative approach called a **settlement conference** is being piloted (tested) for dealing with public law family cases. This guidance provides information on what will be happening during the pilot and what we will be measuring and providing to the government through the Ministry of Justice.

A settlement conference is a hearing held for the purpose of discussion and settlement of the case. It is a **without prejudice hearing** that takes place before a judge with the **consent of all the parties**.

A without prejudice hearing means that what is said and discussed during the settlement conference will not be admissible in evidence (except at the trial of a person for an offence committed at the conference or in the exceptional circumstances indicated in *Re D (Minors) (Conciliation: Disclosure of Information)* [1993] Fam 231, where a statement is made clearly indicating that the maker has in the past caused or is likely in the future to cause serious harm to the well-being of a child). The judge hearing the settlement conference must have no further involvement with the case, other than to make a final order by agreement or a further directions order. The purpose is to try to resolve some or all the issues by agreement. Parties will attend with their legal representatives (where instructed) but are encouraged to speak directly with the judge with the aim of settling the case or particular issues.

The **judge hearing a settlement conference will be different to that of the trial judge**. They will be specially trained in dealing with hearings of this type. The settlement conference judge is a different person. Before the conference, they will have read the case file and might ask the parties questions during the conference.

The judge may not make an order resolving some, or all, of the issues without the agreement of all parties. Where an application is for adoption or placement, a judge may give a judgment with the agreement of the parties (e.g in care order or placement order application where there is no opposition to the same.)

Process

Settlement conferences will take place for public law cases. They will ordinarily take place after an Issues Resolution Hearing (IRH) but there is no reason why some cases cannot be referred much earlier for a settlement conference so long as there will be sufficient information available by the time of the settlement conference for it to be effective. At the IRH, (or in some cases before the IRH) the parties will be asked if they consent to take part in a settlement conference to be assisted by a judge, other than the trial judge. **The case will already have been listed for IRH and final hearing at the FCMH. These hearings will remain listed as well as the case being listed for a settlement conference** to ensure there is no delay if the matter is not resolved and a final hearing still needs to take place.

During the settlement conference the judge will work with parties in a way that promotes settlement. **There is no obligation or pressure to agree to anything at a settlement conference. If agreement is not reached, the case will proceed to final hearing.**

At the end of the settlement conference if there is agreement on all matters, the case will end and an order drafted reflecting the decisions made; the parties will not have to attend a final hearing. If some or all of the issues remain outstanding the parties will come back to court for the final hearing or adjourned settlement conference if appropriate.

What will happen in the pilot and what is being collected

The pilot will be testing how these settlement conferences work. At the end of the settlement conference the judge will fill in a form (see attached). The form the judge is asked to fill in will help the government understand the reasons why a case is referred to a settlement conference, the outcome, time spent on preparing and facilitating the conference, the number of final hearing days listed and the estimated number of days saved (if a case settles). No personal details about the parties will be recorded.

From July selected judges, Cafcass representatives, local authority solicitors and lawyers involved in the process will be asked to take part in interviews and workshops where they will be asked about their experiences of settlement conferences. They will not be naming individuals that they have worked with, they will only be asked about what they think about the process, what went well and what did not go well. If you (as a party of the proceeding) would like to give feedback on what you thought about the settlement conference you can tell your legal representative who may be asked to provide this as part of the research.

How long with the pilot last?

5 months starting from June 2016 and ending in October 2016.

What will happen to the information that is collected?

The information will help government to understand whether this way of conducting a court hearing is a good thing. It will also help identify any problems with the system.

Information for other people involved

Judges and court staff have been provided with guidance on settlement conferences. If you have any questions or would like to know more information please ask the settlement conference judge.

**Her Honour Judge Miranda Robertshaw
Designated Family Judge for Devon
June 2016**