



# INTERMEDIARIES IN THE FAMILY COURTS

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# INTRODUCTION:

We will look at:

- The family court: rules and directions used for vulnerable people
- Paula will talk us through the kinds of cases which you will be involved in
- Intermediaries working in the Family Courts -what is different to the work in the criminal courts, what is the same
- Working with intermediaries in the family court from Paula's perspective.
- Questions





# The Advocate's Gateway

## TOOLKIT 13:

[HTTP://THEADVOCATESGATEWAY.ORG/IMAGES/TOOLKITS/13-VULNERABLE-WITNESSES-AND-PARTIES-IN-THE-FAMILY-COURTS-2014.PDF](http://theadvocatesgateway.org/images/toolkits/13-vulnerable-witnesses-and-parties-in-the-family-courts-2014.pdf)

(a little out of date)

# MAIN POINTS



In place of Criminal Procedure Rules (CPR) see the **Family Procedure Rules (FPR) 2010**

Which set out the overriding objective (rule 1.1 (1)):

the court must deal with cases ‘justly, having regard to any welfare issues involved’.

This includes the requirement for courts to take reasonable steps to ensure the effective participation of vulnerable witnesses.

The Family Courts are not limited by usual courtroom procedures/traditional special measures.

**“The court may use its general case management powers as it considers appropriate to facilitate the party’s participation” FPR 4.2  
[This is the one we rely on!]**

# SOURCES FOR OUR APPOINTMENT/SPECIAL MEASURES

## Family Procedure Rules/Family Procedure Directions

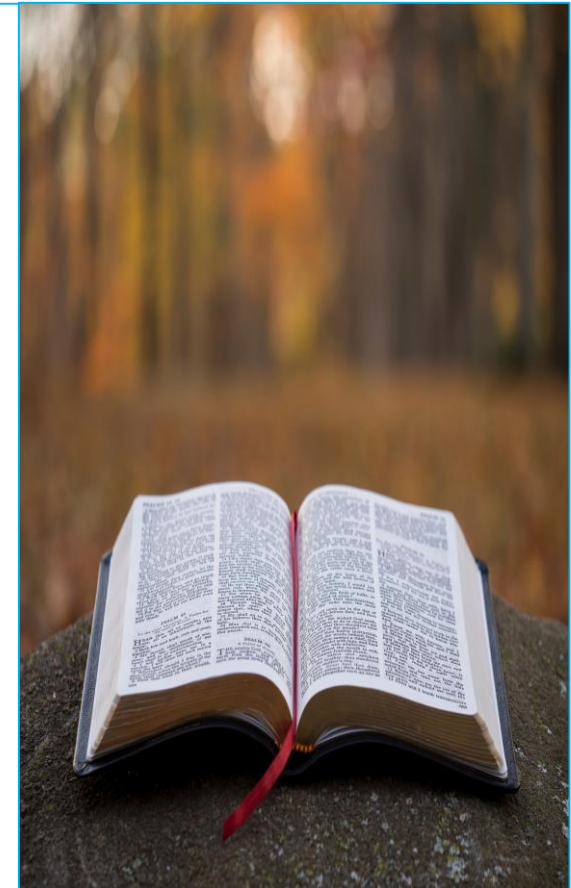
Rule 4.1 FPR provides the Family Court with wide-ranging and flexible powers of case management, including the power to 'take any other step or make any other order for the purpose of managing the case and furthering the overriding objective'.

New bits added to FPR and FPD in November 2017- after the Toolkit was written:

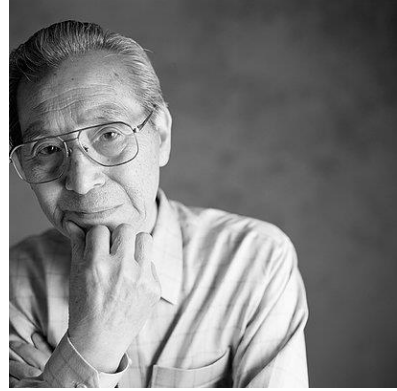
FPR 3A <https://www.justice.gov.uk/courts/procedure-rules/family/parts/part-3a-vulnerable-persons-participation-in-proceedings-and-giving-evidence>

Also 3A.4, 3A.5, 3A.6,

FPD 3AA <https://www.justice.gov.uk/courts/procedure-rules/family/practice-directions/practice-direction-3aa-vulnerable-persons-participation-in-proceedings-and-giving-evidence>



# PARTICIPATION IN PROCEEDINGS AND GIVING EVIDENCE



FPR 3A .7

The court looks at making 'participation directions' (for participation or for giving evidence) having regard to particular factors:

(a) the impact of any actual or perceived **intimidation**, including any behaviour towards the party or witness on the part of—

(i) any other party or other witness to the proceedings or members of the family or associates of that other party or other witness; or

(ii) any members of the family of the party or witness;

(b) whether the party or witness—

(i) suffers from **mental disorder or otherwise has a significant impairment of intelligence or social functioning**;

(ii) has a **physical disability** or suffers from a **physical disorder**; or

iii) is undergoing **medical treatment**



(c) the **nature and extent of the information** before the court;

(d) the **issues arising** in the proceedings including (but not limited to) any concerns arising in relation to abuse;

(e) whether a matter **is contentious**;

(f) the **age, maturity and understanding of the party or witness**;

(g) the **social and cultural background and ethnic origins of the party or witness**;

(h) the **domestic circumstances** and **religious beliefs** of the party or witness;

(i) any **questions** which the court is putting or causing to be put to a witness in accordance with section 31G(6) of the 1984 Act( );

(j) any **characteristic** of the party or witness which is relevant to the participation direction which may be made;

(k) **whether any measure is available to the court**;

(l) the **costs** of any available measure; and

(m) **any other matter** set out in Practice Direction 3AA.



# Participation in proceedings and giving evidence cont...

- “Child” a bit wider than in criminal courts. Children don’t give evidence that often
- Except for children, court has to consider the views of the VP before making an order for an intermediary

Note:

- Some parents may worry that their disability will impact on the outcome of their case (e.g. it may negatively impact on an assessment of their parenting abilities.)

The legal authorities say:

and *Re L (Care: Threshold Criteria)* [2007] 1 FLR 2050 at 2063

‘... society must be willing to tolerate very diverse standards of parenting, including the eccentric, the barely adequate and the inconsistent ... it is not the provenance of the state to spare children all the consequences of defective parenting’.



# THE ISSUES BEING DECIDED IN THE FAMILY COURT: PUBLIC AND PRIVATE LAW

[Link to Paula's notes \(will also be available on IfJ website in due course\)](#)

<https://www.dropbox.com/s/ec2587mb17qiz9d/Handout%20for%20Intermediary%20conference%20%282%29.pdf?dl=0>



# SAME SAME

Measures which can be ordered:

- Screen/Covering the screen for VRI evidence
- Live link
- Communication devices
- Intermediary for whole hearing or for evidence only
- Anything from FPD 3AA
- Can order evidence to be pre-recorded, transcribed etc (but need to think who will record it, edit it, where, who will file and serve a copy? Confidentiality? ]

# DIFFERENT

Advocates have a **duty to assist the court** in identifying and appropriately responding to the vulnerability of parties and witnesses.

Court must think about **who** puts the questions, **how** taking of evidence should be managed, **whether** to use VRI's from criminal matters, etc

Tricky issues:

No witness support

Waiting areas often busy and not always easy to get a quiet space/room. Some courts will allow solicitor to book one in advance.

If DV, abuse etc separate entrance for arrival/departure?

Trying to avoid delay-getting priority in the list-not easy

In the family court a person can lack capacity but still be competent to give evidence

If no capacity -litigation friend

Private law matters: they may have to fund themselves (pay your bill), they may not be entitled to legal aid and not have a solicitor appointed

(Judge has the power to appoint someone if needs be?)

## FPD 3AA

The Court has to have regard to particular matters when considering vulnerability:

- domestic abuse,
- sexual abuse,
- physical and emotional abuse,
- racial/cultural abuse or discrimination
- forced marriage, 'honour-based' violence
- FGM or other physical mutilation,
- abuse or discrimination based on gender or sexual orientation,
- human trafficking

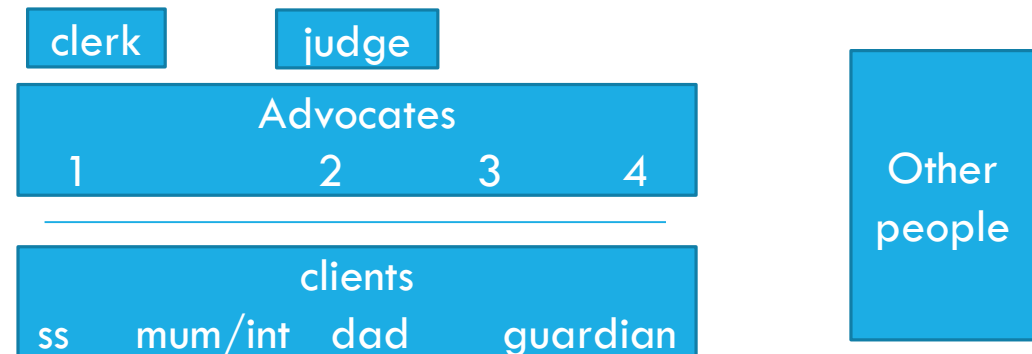
# WHAT IS DIFFERENT FOR YOU AS THE INTERMEDIARY IN COURT?

What is different:

- Smaller more intimate court
  - No wigs and gowns
  - Nice bunch of people (in my experience!)
  - Public law matters: often 4 or more parties
1. Local authority
  2. Mum
  3. Dad
  4. Guardian (s)

Layout in court: Lawyers for each in the front row

- We usually sit second row behind lawyer with client and interpreter
- In private, so more flexible quite often?
- Less formal sometimes?(depends on judge)



# TERMINOLOGY?

## **Public Law**

Fact finding

Welfare

Appeal



## **Or private law:**

Arrangements for the children

Property and finance/Ancillary relief



# HOW TO GET PAID!

Payment: wrangles between LAA, Social services, HMCTS:

See:

<https://www.childreninlaw.co.uk/2017/08/intermediaries-how-to-get-one/>

See my note on how to get paid by HMCTS. I do not accept cases where the LAA pay as I have had bad experiences (they don't!). Social services? No idea!



# PROCESS FOR PAYMENT IN THE FAMILY COURTS

(MY NOTE SO FAR..)

1 Set yourself up as a new supplier by supplying the required information to your court contact. You only do this once and then you have a number. (If you have invoiced MoJ for RIRT or something you may have a number already.)

2 Get the court to do the paperwork so that you receive a purchase order number from [SOP-noreply@sscl.gse.gov.uk](mailto:SOP-noreply@sscl.gse.gov.uk) (Shared Services who deal with payment. They are HMCTS' finance providers.)

3 If no PO, you will need to invoice with the reference OU0250 and the cost centre code for the court in question, see list attached. One cost centre per invoice. Display this information very clearly.

4 Send your invoice direct to:

[APinvoices-CTS-U@sscl.gse.gov.uk](mailto:APinvoices-CTS-U@sscl.gse.gov.uk) and you get an acknowledgement through although this does not necessarily mean the invoice is on the system. See advice on what your invoice needs to include and how to submit an invoice

5 Keep this number handy to see if your invoice is on the system: 0845 241 5351. Or you can email if any problems to [MoJ-finance-ap-enquiries@sscl.gse.gov.uk](mailto:MoJ-finance-ap-enquiries@sscl.gse.gov.uk)

6 Make sure the words on the PO number match exactly whatever you invoice for. If your court dates change the PO will have to be changed or you don't get paid. The court do not seem to apply for an additional PO if the original funding does not cover your costs. You will need to write to your contact contact and SSCL to sort this.

7 If nothing happens there could be an issue with your invoice. You will have to contact them. They are unlikely to contact you.

# HMCTS DRAFT DOCUMENTS- WORK IN PROGRESS

## Guidance for intermediaries

### Invoice format and submission

#### What your invoice needs to include

To get your invoice scanned successfully onto our finance system it must contain the following information.

- The word 'invoice' must be clear on the invoice
- either a valid purchase order (PO) number **OR** quote OU0250
- The relevant 8-digit cost centre code that you can get from your HMCTS contact
- A unique invoice number
- Your company name, address and contact information

The name and address of the department/agency you're invoicing. For HMCTS it is  
SSCL

HMCTS  
PO Box 745  
Newport  
Gwent  
NP10 8FZ

- A clear description of what you're charging for, for example the case number and name (if appropriate) of the vulnerable person you have been asked to assist
- The date of the invoice
- The amount being charged
- VAT amount if applicable
- The total amount owed

All the above information is needed to ensure payment of your invoice. If any of the information is missing we will have to return it to you. You will receive a letter explaining why the invoice was rejected.

#### How to submit your invoice

The quickest and easiest way to submit an invoice is by secure email to the following email address:

[APinvoices-CTS-U@sscl.gse.gov.uk](mailto:APinvoices-CTS-U@sscl.gse.gov.uk)

All invoices submitted by email must:

be in pdf format including any supporting information, backing data etc

have only one invoice per pdf document – attach multiple invoices as separate pdf documents be no bigger than 4mb in size

Please follow these instructions or your invoices might not be processed or returned to you.

If you prefer to send a paper invoice the address to send them to is the same as the SSCL address above.

#### Invoices containing a PO number

Invoices that are received with a valid PO number will be matched to the Purchase Order to ensure that the information matches.

If there are any differences, such as the descriptions not matching or the amount requested being higher than the PO then the invoice may not be paid. To ensure the best chances of your invoice being successfully matched and validated, it should replicate, as much as possible, the information and structure contained in the corresponding PO.

#### Non- PO invoice validation

Invoices that do not have a valid PO number, but quote OU0250 and a valid cost centre will be sent to the relevant cost centre approver in HMCTS for the invoice to be approved for payment. This is a slower process so it will take longer to process your invoice for payment.

#### Further information

Please contact SSCL or your HMCTS business contact if you have any questions about invoicing. You can contact SSCL by email [MoJ-finance-ap-enquiries@sscl.gse.gov.uk](mailto:MoJ-finance-ap-enquiries@sscl.gse.gov.uk) or on 0845 241 5351 (Option 2).

For details of where to send invoices for other agencies in the Ministry of Justice please visit: [www.gov.uk/government/organisations/ministry-of-justice/about/procurement](http://www.gov.uk/government/organisations/ministry-of-justice/about/procurement)





## HM Courts & Tribunals Service

### FAQs

#### **How do I get a Purchase Order (PO) number?**

You need to send a description of the work you have been asked to do to the court. This should include the case number and the name (if appropriate) of the vulnerable person you have been asked to help, and a quote for the total amount you expect to invoice for. The court will send a purchase order request form to the PO team.

You will receive a copy of the purchase order with the PO number. This is the number you should quote on any subsequent invoices for that particular case.

#### **What do I do if I am not set up as a supplier on the system?**

You need to give your court contact the information below on letter headed paper.

Your supplier name  
Address  
Telephone number  
Email address for remittance advices  
Email address for POs and correspondence  
Your Bank details  
DUNS number  
VAT Registration number

The court will complete a form to set you up on our finance system. You only need to be set up on our system once.

#### **What do I do if I cannot get a purchase order number?**

If you cannot get a purchase order number you can quote OU0250 and the relevant cost centre code on your invoice. Please ensure that this information is predominantly displayed on your invoice.

#### **How do I get a Cost Centre code?**

Your court contact will be able to give you the 8-digit cost centre code.

#### **What should I do if the court changes or the case gets transferred?**

If you have a PO then you do not need to do anything different if the case gets transferred to another court. If you are submitting your invoice without a PO number then you need to ensure that you only quote one cost centre code per invoice.



# HMCTS ALSO DRAFTING INTERNAL GUIDANCE FOR COURT STAFF

With thanks to Sidonie Kingsmill-HMCTS Customer  
Director

Laurie Scammell-HMCTS Head of Office -  
Finance, Governance & Performance