

## BREACH OF THE CODE OF PRACTICE FOR OFFICIAL STATISTICS

A breach of the Code of Practice for Official Statistics occurs where one or more provisions of the Code were not followed in situations where an exemption or exception had not been approved by the UK Statistics Authority's Head of Assessment, as required in paragraph (xii) of the Code's preamble. Rules on pre-release access to statistics are covered in the relevant Pre-Release Access to Official Statistics Orders; the Code applies as if it includes these orders.

### 1 Background Information

Name of Statistical Output (including web link if relevant)

Court Statistics Quarterly (CSQ)  
<http://www.justice.gov.uk/statistics/courts-and-sentencing/judicial-quarterly>

Name of Producer Organisation

Ministry of Justice (MoJ)

Name and contact details of person submitting this report, and date of report

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3 August 2012

### 2 Circumstances of Breach

Relevant Principle/Protocol and Practice

Protocol 2: Release practices.  
2.8 Ensure that no indication of the substance of a statistical report is made public, or given to the media or any other party not recorded as eligible for access before publication.  
2.1 Release statistical reports as soon as they are judged ready, so that there is no opportunity, or perception of opportunity, for the release to be withheld or delayed. (See section 5 for reasons for publication schedule)

Date of occurrence

31 July 2012

Nature of breach (including links with previous breaches, if any)

During the “Modernisation of Family Justice” press conference on the 31 July 2012, the press questioned the panel on case timescales and the level of delay in family justice cases. As part of the answer provisional data was cited, i.e. the average duration of a care case for the period April to June 2012 being 51 weeks (provisional). This duration period is an early estimate of the figure that will feature in the September 2012 CSQ publication.

- The question posed was:

“When you were talking about delays, I just wondered if you could give us some details about what time of timescale those delays were, and also whether you were finding those before 2008 or whether that was just something that led to a kind of a one-off increase?”

- To which the panel responded:

“Delay has increased steadily from the implementation of the Children Act 1989, when it was anticipated that a care case could be completed in twelve weeks. That probably never occurred, but you will see that delay has increased to the time when David Norgrove reported when it was at an average of 57 weeks – in fact, over 60 weeks in the County Court. That was in the spring of 2011. I am pleased to say that the figures for the summer of this year show an average of 54 weeks, and the last quarter have shown a similar reduction again. **Although they are only provisional figures, we appear to be down to 51 weeks.** That is, in part, by the use of the additional 8,000 days over the last two years, and in part by implementing some of the reforms we are talking about today.”

- The response was then used in an article in The Independent on 31 July 212 (<http://www.independent.co.uk/news/uk/home-news/call-to-cut-family-justice-delays-7994358.html>).
- A full copy of the transcript of the press conference can be found at: <http://www.judiciary.gov.uk/Resources/JCO/Documents/Reports/press-conference-modernisation-family-justice-31072012.pdf>

Reasons for breach

The figure of 51 weeks was quoted by the Judicial Office in oral briefing to those individual’s who were present at the press conference. The role of the Judicial Office is to support the judiciary, including providing policy advice, and they have one member that sits on the Performance Improvement Sub Group. The panel were not aware at that

stage that the data was for information purposes only and any release was likely to result in a breach of the Code of Practice for Official Statistics.

### **3 Reactions and Impact**

Although the story appeared in the wider press, no comment has been received from the public.

### **4 Corrective Actions Taken (include short-term actions, and long-term changes made to procedures)**

Members and observers of the Family Justice Board, including the Performance Improvement Sub Group are or have already been reminded of their responsibilities when it comes to early access to provisional information which may later appear in Official or National Statistics.

Members of the Family Justice Board and the Performance Improvement Sub Group will only be provided early access to the provisional data after they have signed a declaration stating that they won't share any figures in the pack. Until this process is accepted, MoJ statisticians will no longer provide information for the evidence pack.

The MoJ via the HoP for Statistics will make everyone who uses management information or statistics aware of their obligations under the Code of Practice for Official Statistics. Including, but not limited to, management information teams in MoJ responsible for provision of data for briefing, boards and management teams. Guidance on the use of management information prior to the release of Official or National Statistics will be strengthened and circulated across the department, by developing documentation which clarifies and re-iterates the obligation of users. In the meantime the HoP will only allow the provision of information in times of crisis to help facilitate the smooth operation of the Court and Tribunal Service, for example during the 2011 public disturbance information was made available to ensure resources were deployed in the correct areas.

### **5 Any other relevant supporting material (including link to published statements about this breach)**

In addition to the oral briefing that was provided at the press conference, data on the timeliness of care proceedings cases are also provided to the Family Justice Board, in an evidence pack. It is made clear and it is part of the pack that if these data were used publicly they would not be allowed to use unpublished data again. The Family Justice Board members were also made aware of this condition in the covering note to the pack and the pack was marked restricted. A copy of the covering note which includes a section on data security and the likely outcomes if these protocols are not adhered to is shown in Annex A.

The role of the Family Justice Board is to drive significant improvements in the

performance of the family justice system where performance is defined in terms of how effective (and efficient) the system is in supporting the delivery of the best possible outcomes for children who come into contact with it. In delivering against this aim, the Board will have a particular focus on:

- a) reducing delay in public law cases and making progress against the proposed 6-month time limit for care cases;
- b) resolving private law cases out of court where appropriate;
- c) building greater cross-agency coherence; and
- d) tackling variations in local performance.

The evidence pack is produced for the Family Justice Board and its performance improvement sub-board (PISG) on a quarterly basis. The evidence pack is designed to be a source of information to facilitate discussion at the PISG regarding what actions need to be taken to drive improvements in performance. The pack contains information (both published and unpublished) from MoJ, HM Courts and Tribunal Service, Children and Family Court Advisory and Support Service, Department for Education and the Legal Services Commission with some high level analysis and comparison of the data.

The pack is produced on a quarterly basis and is sent to the board members of the performance improvement sub group (PISG) approx 1 week before the PISG meeting. The meetings take place approximately every 3 months. The next meeting is on 10 Oct. After the PISG have seen and agreed the pack it goes to main board. This will normally take place about 2-3 weeks after the PISG.

The PISG get the pack just after CSQ has been published but they will also have provisional data for the following quarter which has not yet been published in CSQ.

CSQ is a quarterly publication and it is usually published at the end of the following quarter. It includes not only the figure in question but also a range of other information with the aim of putting the entire civil, family and criminal courts processes in one coherent story. So, for example, the January to March quarter figures were published 28 June 2012; a three month lag that is implemented to allow:

- the data to work their way through the administrative court data systems. Data from the courts are uploaded to the MoJ early each month. So, for example, the upload in early April is deemed too early for representative figures to be produced for the January to March period; and,
- the inclusion of commentary, extensive internal data checks and quality assurance all figures. This process is currently taking around 5/6 weeks.

Thus, the extract used for the 28 June 2012 publication was the early May one. In this case estimates for the April to June quarter can be produced provisionally in early July based on the available data at that moment, but the National Statistics are prepared

using data extracts from early August to be published in 27 September 2012 and brings together statistics from across the court system.

It is understandable as to why this happened and as highlighted the MoJ are refreshing and updating our guidance on dealing with management information, which plays an important role in allowing the department to operate effectively.

## The Performance Evidence Pack (PEP)

### Rationale and Structure

1. The purpose of the PEP is to provide the Performance Improvement Sub-Group (PISG) with as good a picture as possible of the performance of the family justice system, given the current availability and quality of data. As such, it should help the PISG to develop a programme of performance improvement actions that are informed by the available performance information.
2. The PEP brings together data, for the first time, from all the agencies involved in Family Justice.
3. The pack is spilt into three levels; 1) key data and information on the key performance measures, 2) supporting and contextual information and 3) Tables with all the data collected. Level 3 has not been circulated (it is a very large excel file) but it is available if any panel members wish to see it.

### Key Findings

#### Public Law

4. **Numbers and duration of Care and Supervision applications increasing:** Since 2008 the number of Care and Supervision applications and the average time to disposal have increased. The most recently available data shows a small improvement in timeliness.
5. **Some improvements in Children and Family Court Advisory and Support Service (Cafcass) timeliness data.** Cafcass data has shown improvement since 2010 in measures which may be related to timeliness such as the time to case management conference and time to appoint a guardian.

#### Private Law

6. **Falling volumes of applications accompanied by increasing timeliness.** Timeliness in private law cases has improved over the last year. This may be reflective of falling applications and improvements in the time taken for local authorities, Cafcass and the police to conduct safeguarding checks
7. **Increases in initial demand for mediation.** There has been a 19% increase in the number of publicly funded couples attending a Mediation Information and Assessment Meeting (MIAMs) and an 8% increase for mediation starts, between 2010/11 and 2011/12.
8. **But take-up rate for publicly funded mediation has dropped.** The proportion of publicly funded couples attending MIAMs who went onto mediation decreased from 63% in 2008/9 to 49% in 2011/12. This is not necessarily unexpected as a new client group is now being directed to the mediation process; they may have different views and behaviours to previous clients.

9. The percentage of publicly funded family mediations reaching full agreement has remained around 65% over the past five years. In 2011/12 the proportion with full agreement was slightly less at 63%.

#### Regional Variation

10. Performance in the London region is consistently lower than other regions for measures relating to both public and private law. For example, London had the second longest average time to disposal for care and supervision cases in January - March 2012 and since 2010 the average time to appoint a guardian in London has been more than double the national average. The data we have does not fully explain this (application volumes in London are high but other regions have experienced higher volumes). We would welcome the group's views on the reasons for this.
11. In private law children cases, out of all the English regions London had the longest duration to first hearing dispute resolution appointment in January - March 2012 and to first full order in April 2011 – March 2012.
12. Performance in Wales is lower than the England & Wales (E&W) average on a number of measures: for example average duration to disposal for care and supervision cases was longer than the E&W average during October - December 2011 and the percentage of care cases appointed to a Cafcass Cymru guardian within two working days has been decreasing since 2008, whereas similar Cafcass measures are improving. Wales also showed a longer time to disposal for private law children cases than for E&W average.

#### Data Security

13. The evidence pack contains unpublished data that has been made available as management information to panel members and will be made available to the local Family Justice Boards ahead of publication in the Ministry of Justice's (MOJ) National Statistics publications. There are very strict National Statistics guidelines for these publications and so **data (or any interpretations from them) must not be made available publicly before they are published as National Statistics**. Therefore the evidence pack is marked restricted and must not be circulated further. If any of the restricted data is publicly reported before its official publication, we will not be allowed to present or use this unpublished data in the future."

#### Next evidence pack and further work

14. The first pack has focused on historical trends in the data. In future packs we expect to include less of this data and focus more on current performance, changes since the last pack and regional comparisons. As data from the HM Courts and Tribunal Service (HMCTS) Case Management System (CMS) becomes available this will be included. CMS should improve our understanding of performance by providing more detail on case progression including hearing data, the number of experts commissioned and the reasons for adjournments.
15. We are aware that there are problems comparing the data because the agencies have different regional structures. In the future, we would like to undertake some mapping work to match the regions. Also, we would like to provide some information for the local boards on sources of data and analysis to assist in their reporting to the PISG. How quickly this work can be completed will also depend on resources.