

A REVIEW OF THE OPERATION OF THE
LONDON FINANCIAL REMEDIES COURT

FEBRUARY 2022

HHJ EDWARD HESS

LEAD JUDGE, LONDON FINANCIAL REMEDIES COURT

HHJ LYNN ROBERTS

DESIGNATED FAMILY JUDGE FOR CENTRAL FAMILY COURT

MR JUSTICE MIKE KEEHAN

FAMILY DIVISION LIAISON JUDGE, LONDON

EXECUTIVE SUMMARY

1. This paper has been prepared by Edward Hess in his role as Lead Judge of the London FRC, but the Designated Family Judge (HHJ Lynn Roberts) and the Family Division Liaison Judge (Mr Justice Keehan) have been involved in the analysis and strategic decision-making involved in the report. Views are now sought on a consultation basis from those likely to be affected by the suggestions.
2. This intention of this paper is to review the current operation of the London Financial Remedies Court and to suggest some steps which need to be taken as a matter of priority.
3. By common consent, the time taken to deal with financial remedies cases in the outer London family courts has risen to an intolerable level. The existing judicial sitting arrangements, and the administrative structure of the London FRC, need to be radically overhauled to bring about an improvement in performance. Nothing in this report is intended to be construed as criticism of the salaried judges who conduct the FRC work. As is well known, the most significant problem is that there are not enough salaried judges and the volume of litigation is very high such that judicial

resources are very stretched. One consequence of this fact is that the conduct of FRC work has become heavily reliant on fee-paid judges and there have been great difficulties attracting sufficient numbers of fee-paid judges to do FRC work in many London courts (though not the CFC). The aim and purpose of this paper is not to take for FRC work a greater share of the overall London judicial resources than hitherto; but is to secure a fair and reasonable level of judicial resources for FRC work in London and deliver those resources in a more efficient way.

4. This paper suggests that:-

- (i) The HMCTS administration of the London FRC, including arrangements for listing of FRC cases, needs to be centralised at the zone hub, i.e. at the Central Family Court.
- (ii) Salaried FRC judges in the satellite courts (together with some ‘nested’ DDJs) should continue to do FRC work in the satellite courts, but this should be listed and administered from the hub court.
- (iii) HMCTS should execute a plan for four new FRC courts to be created and administered from the CFC, with the plan that these courts would be utilised by Recorders and DDJs dealing with London FRC work. Our strong preference is for this to be on the seventh floor of the Central Family Court at First Avenue House, this space currently being available because of the departure of the London Probate Office. It is understood that budgetary considerations (mainly the capital costs of creating four new court rooms in what is now a largely open space on the seventh floor) may impede this plan from happening immediately. As an interim measure it will be necessary to locate some the courts elsewhere. One possibility (which may be affordable and deliverable) is to create two new courts in First Avenue House and to utilise two courts in the RCJ until more courts can be found in First Avenue House.
- (iv) While the new courts are created we may be able to utilise, staff and administer four courts in the RCJ for the same purpose. But this should be a short term measure as it will be administratively much more efficient to have the courts in the same building as the CFC administrative staff.

EXISTING STRUCTURE OF THE LONDON FRC

5. The London Financial Remedies Court (London FRC) has developed out of the old Financial Remedies Unit (FRU) at the Central Family Court (CFC); but is formally now the London zone of the (national) Financial Remedies Court.

6. The hub court is the CFC. The other courts within the London zone, referred to collectively in this paper as ‘the satellite courts’ are: Barnet, Brentford, Bromley, Croydon, East London Family Court, Edmonton, Kingston, Romford, Uxbridge and Willesden.
7. The FRC judges currently authorised to sit in the London FRC (which should align with the formal FRC Organogram) appear on the list in Appendix A. I have in recent weeks identified a contact judge in each of the courts who can represent the views of the salaried judges in these courts. I have made it my business to have a conversation with each of the contact judges to ascertain their perception of how things are working at present and how things could be improved. It was a common theme of almost all of these conversations that the current arrangements between the hub court and satellite courts were not working well, also that there was (apart from a number of ‘nested DDJs’) a real difficulty in recruiting DDJs and Recorders to sit in FRC cases in these courts and that lists were often being pulled at the last minute because of this.
8. The administrative/procedural structure of the London FRC (in terms of the relationship between the hub court and the other courts) currently works as follows:-
 - (i) All applications for financial remedies (by Form A) are sent to the hub at the Central Family Court, increasingly via the Digital Contested Cases system, i.e. the digital portal.
 - (ii) The administrative team at the Central Family Court will then carry out a gatekeeping and allocation procedure.
 - (iii) Where the applicant’s home is outside London, and the case is not complex, the case will ordinarily be transferred straight away out of the London FRC to the relevant FRC zone, referable to the applicant’s home.
 - (iv) Cases where the applicant’s home is in London, but which are non-complex, will be geographically allocated by HMCTS staff according to the court in London closest to the applicant’s home address (i.e. either the CFC or one of the satellite courts). If the CFC is the local court the case will remain in the CFC for its duration.
 - (v) Each satellite court has, in discussion with the CFC, offered up a number of FRC days in its lists for the CFC to list into. Some of these lists may be intended for resident salaried FRC Judges in the satellite court, others may be intended for a fee-paid Judge. These lists are mapped out well in advance, but may be added to in the course of the year where necessary. The lists do not cover final hearings, which are dealt with separately by the satellite court without any input from the CFC.

- (vi) Where the local court is a satellite court, the First Appointment will be listed by the CFC administration into one of the identified lists in the satellite court. If the hearing does not go ahead (for whatever reason, but for example if a list is pulled at the last minute for judicial non-availability) the CFC are asked to re-list the case in another list.
- (vii) Once the First Appointment has taken place the satellite court will normally ask the CFC to list an FDR and this will be done into another list. After an unsuccessful FDR, the listing is carried out by the satellite court according to that court's judicial availability and other priorities and the CFC will have no involvement with this nor will the administrative staff CFC normally even know when the listing has been scheduled nor when or even whether the hearing has taken place.
- (viii) Cases where complexity is asserted will be referred to the complex cases allocation team (made of judges at the CFC) who will then, if satisfied that there is an adequate London connection, allocate the case to a particular named judge who will then take the case forward to its conclusion. These cases will be dealt with at the CFC.
- (ix) The CFC currently operates seven FRC courts on each sitting day (this is generally, but not always achieved). The seven courts are staffed by a combination of resident salaried CJs and DJs, each of whom have committed to do a percentage of FRC work (the range is between 20% and 100%), and Recorders and DDJs brought in on a fee-paid basis.
- (x) In the satellite courts there are a significant number of resident DJs (and a number of resident CJs) who have expertise in and enthusiasm for FRC work. A common problem is, however, that because the listing within the satellite courts is executed within the satellite court, and the hub court has no control over it, the FRC lists of resident judges often get bumped by a care or private law children's list. Because of the current administrative division, it is very difficult to obtain any meaningful statistics on how often this is happening, but anecdotal evidence suggests that it is a frequent occurrence.
- (xi) There has not been any difficulty in recruiting a sufficient number of good quality Recorders and DDJs to sit in the CFC. This group consists mostly of money specialist practitioners who are happy to work in the London FRC at the CFC. Anecdotal evidence suggests that they find work at the CFC attractive for a number of reasons: they can be confident they will be given an FRC list, they like the clerked courts available in the CFC, they appreciate the concentration of specialty arising from the number of FRC courts operating in the CFC and they find the CFC geographically accessible.

- (xii) The experience of recruiting Recorders and DDJs to do FRC work in the satellite courts has been significantly more difficult. There are a small number of DDJs who have a particular affinity with a particular satellite court (for example because they live very near it or they used to be resident there as a salaried judge and have now retired) and this report refers to these individuals as ‘nested’ DDJs and their wishes obviously need to be respected.
- (xiii) Otherwise, it is a common experience that FRC lists allocated to a Recorder or DDJ ‘to be confirmed’ are often not being filled and are being pulled at the last minute. Again, because of the current administrative division, it is very difficult to obtain any meaningful statistics on how often this is happening, but anecdotal evidence suggests that it is a frequent occurrence.
- (xiv) The listing of final hearings within the satellite courts is executed without any reference to the administrative team in the hub court. Not universally, but typically, final hearings are being listed before DDJs and are dependent upon a DDJ volunteering for the task. Anecdotal evidence suggests that some final hearings are being listed more than one year away from the request (quite a number of examples of this have come to the attention of the administration team in the hub court – see Annex B for some case studies) and it is a common experience that DDJs are not volunteering and the hearing is being pulled at the last minute – and another long wait afforded to the hapless litigant. Again, because of the current administrative division, it is very difficult to obtain any meaningful statistics on how often this is happening, but anecdotal evidence suggests that it is a frequent occurrence.

A STATISTICAL ANALYSIS OF OVERALL PERFORMANCE

9. The statistics for the number of cases following the different allocation routes are not easy to extract, but the best available analysis of the data suggests that the initial allocation breaks down, with a good degree of caution about approximations and warning about fluctuations, as something like as follows:-

COURT OF INITIAL ALLOCATION	ESTIMATED NUMBER OF FORMS A PER YEAR	ESTIMATED NUMBER OF FORMS A PER MONTH
Central Family Court (Complex)	283	24
Central Family Court (Non-complex)	424	35
Barnet	101	8
Brentford	78	7
Bromley	85	7
Croydon	136	11
East London	127	11
Edmonton	148	12
Kingston	110	9
Romford	182	15
Uxbridge	111	9
Willesden	87	7
TOTAL	1872	155

10. We have attempted to do our best to tie down the statistical data necessary to analyse these problems. It has become apparent that the statistical data available falls short of what it would be desirable to have; but this paper seeks to do the best we can.
11. The statistics for the length of time a case takes to move from Form A to conclusion are mystifyingly difficult to extract. They are complicated by the fact that some cases are never contested and, for contested cases, most settle at some stage prior to a final hearing. A helpful source of overall and London-specific data is the second report of the Farquhar Committee (*The Financial Remedies Court – The Way Forward: Published September 2021*) – we shall refer to it here by its colloquial name of Farquhar 2.
12. The Farquhar 2 report identified a number of things (with some health warnings about the accuracy of the statistics):-

- (i) First, in 2019 there were (in England and Wales) 8,136 contested cases issued. (Note, therefore, that on this analysis, the London FRC has approximately 23% of all contested cases in England and Wales).
 - (ii) Secondly, of these contested cases, on average approximately 30% settled prior to the FDR. Of the cases which reached FDR, on average approximately 50% settled prior to a final hearing such that approximately 35% of issued cases reached a final hearing.
 - (iii) Thirdly, the Farquhar 2 report regarded the London figures as so “*totally out of line with other regions*” that the London figures were excluded from the averaging process so as not to skew the figures. For the rest of the country the average length of proceedings which concluded at the FDR was 55 weeks and the average length of proceedings which went to a final hearing was 84 weeks. The equivalent, but excluded, London figures were 117 weeks (just over two years) to FDR and 160 weeks (just over three years) to final hearing.
 - (iv) Fourthly, all the graphs produced in the statistical analysis chapter of Farquhar 2 (which we have attached hereto as Annex C) show the London performance, on every data category, as being catastrophically bad in comparison with the remainder of the country.
13. This grim statistical analysis of the London FRC overall performance (so bad that its accuracy was questioned by the Farquhar 2 report) unfortunately matches with anecdotal evidence of what is happening on the ground and is likely to be broadly accurate – a picture of intolerably long waiting times and lists being pulled at the 11th hour as a result of a shortage of judicial availability and then being followed by further long waiting times. There must, of course, be a large but unmeasurable number of miserable human experiences tied up in these statistics and these time periods for London are simply unacceptable, both in themselves and in comparison with other parts of the country.
14. We have attempted to identify why this is happening in London and have identified a number of causes and a potential solution.
15. In analysing the situation we have sought out data which breaks down the performance outcomes of the different parts of the London FRC.
16. A regular problem for the administrative team at the CFC has been the ability to list First Appointments at the satellite courts within the 16 week statutory period. Sometimes the issue of Form A has been held back to facilitate the 16 week period.

On other occasions the First Appointment has just had to be listed outside the 16 week period.

17. To ascertain how long it takes to list an FDR on the next available date we obtained data at two random test point dates some three months apart (in the second half of 2021) and averaged them, producing the following results. It has to be said that in each Satellite court the figures vary from month to month, but the table is broadly illustrative of the waiting times involved. In our view a wait to FDR of the lengths being experienced in some courts is too long. This table provides a helpful illustration of waiting times, but it does not, of course, record the consequences of a list being pulled through lack of judicial availability at the last minute, starting the waiting time clock again and doubling the misery for litigants.

COURT	Number of days to wait for next available FDR	Number of months to wait for next available FDR
Central Family Court	120	4
Barnet	233	7.8
Brentford	251	8.4
Bromley	343	11.4
Croydon	215	7.2
East London	144	4.8
Edmonton	248	8.3
Kingston	329	11
Romford	278	9.3
Uxbridge	214	7.1
Willesden	166	5.6

18. Another snapshot was taken in January 2022, which produced the following figures:-

COURT	Number of days to wait for next available FDR	Number of months to wait for next available FDR
Central Family Court	120	4
Barnet	217	7.2
Brentford	111	3.7
Bromley	341	11.4
Croydon	330	11
East London	205	6.8
Edmonton	273	9.1
Kingston	106	3.5
Romford	230	7.7
Uxbridge	261	8.7
Willesden	182	6.1

19. We have statistical data for how long after FDR it takes to achieve a listed final hearing in the CFC (the current estimate is 4 months if the case has a time estimate of up to 2 days or 5-6 months with a time estimate of 3 days or more). The aim should

surely be to attempt to extend these performance figures as far as possible for the remainder of the London courts.

20. Because of the split in administrative functions post-FDR we have no data on how long it takes for a case to proceed from FDR to final hearing in the satellite courts. Sometimes, if the time estimate is three days or more, the case is transferred to the CFC. If it remains in the satellite court then there is no data on how long the process takes, nor on how frequently a final hearing is pulled for lack of judicial availability – since it is often the preference of the satellite courts to list final hearings before DDJs. There have been examples of cases drawn to our attention where the final hearing date is more than one year away (see the case studies in Annex B). This is simply not good enough, but it explains the data in the Farquhar 2 report suggesting that it can take more than three years in some parts of London to take a case through from Form A to final hearing.

MEASURES REQUIRED AS A MATTER OF PRIORITY

21. We suggest that the following measures are put in place to deal with this problem.

22. First, there needs to be a reform of the administrative listing structure:-

- (i) The specialist administration team in the hub court at the CFC needs to be properly in charge of the listing process and be able to keep a proper monitoring eye on the waiting times people are experiencing for their hearings. All listing needs to be done from the hub court, including listing of final hearings and decisions on pulling lists at the 11th hour. Only with this control can a proper administrative eye be kept on the time that cases are taking to determine. Any proposal to vacate an FRC list should be referred to the London FRC Lead Judge. It should be exceptional.
- (ii) All the salaried FRC Judges (and in addition a number of identified DDJs who have a particularly close affinity with or connection to a particular court, referred to here as ‘nested’ DDJs – eg in Romford, one of the DDJs is the husband of one of the sitting DJs, in Uxbridge, there is DDJ who lives very close to the court) should have a set number of FRC days in their diaries which, where possible, should be identified clearly in advance so that the hub listing team can list into them. These should not be vacated without the approval of the FRC Lead Judge and should not be pulled at the eleventh hour, absent an overwhelming individual reason. The number of the days and the identification of the days should be agreed by discussion in advance.

23. Secondly, we need some extra London FRC court space presided over by Recorders and DDJs (recognising the problem of recruiting salaried judges to the London courts) in a setting at for which they are willing to volunteer. As it happens, there is an ideal facility on our very doorstep, the seventh floor of First Avenue House. This floor has been vacated by the Probate Service and is currently being occupied on a temporary basis by the Court of Protection to allow extra spacing for Covid purposes. Subject to that short term need, it is available for use and ideal for FRC purposes. The use we would suggest is for additional FRC courts, to allow us to deploy Recorders and DDJs to do the hearings which the hub courts cannot currently handle. Locating these courts in First Avenue House would have the dual advantage of being administratively simpler for the London FRC administration team, but also (because of their location in Central London in clerked courts) be much more likely to attract Recorders or DDJs who would otherwise simply not be utilised by the court system. We suggest that four new courtrooms with judges' chambers could be erected within the space, still leaving other space on the seventh floor for other purposes.
24. We recognise that it may take a period for these new courts to be created on the seventh floor of First Avenue House and that budgetary considerations (mainly the cost of creating the new courts) may be an impediment, though hopefully a temporary one. As an interim measure it will be necessary to locate some the courts elsewhere. One possibility (which may be affordable and deliverable) is to create two new courts in First Avenue House and to utilise two courts in the RCJ until more courts can be found in First Avenue House. While the new courts are created we may be able to utilise, staff and administer four courts in the RCJ for the same purpose. But this should be a short-term measure as it will be administratively much more efficient to have the courts in the same building as the CFC administrative staff. It is believed that this court space is currently available at the RCJ, indeed is currently being used (though not entirely successfully) as relief courts for final hearings of cases from a number of outer London courts. The administrative staff in the CFC believe that if they were in charge of administering these courts they would be successful in finding DDJs and Recorders to staff them.
25. In reaching these conclusions it has been necessary to analyse whether the extra court space would meet the need for improvement. These are very much estimates, but it is suggested that we assume that for all the FRC cases not currently proceeding in the CFC, say if 100% require $\frac{1}{4}$ court day for a First Appointment, 70% require $\frac{1}{4}$ day for an FDR, 35% require say an average of 2 days for a final hearing and say 50% require an extra $\frac{1}{2}$ day for MPS or LAPO or equivalent then the number of court days required then 1.375 days per case is required. On the basis that there are c.1,165 non-CFC applications each year then the total number of court sitting days required to service these cases would be $1.375 \times 1,165 = 1,602$.

26. Whilst there would need to be a good deal of dialogue with individual judges in terms of individual commitments and existing listing patterns, it is reasonable to make some working assumptions. If all the resident salaried satellite court DJs (c.28) each committed to do an average of 20 FRC days per year (it may be more in some cases and less in other cases and the CJs could do some days to supplement any shortfall on this assumption) and some nested DDJs in the satellite court (say 10, their identities would need to be established) each guaranteed to do an average of 15 FRC days per year then the following work would be done outside the CFC: 28×20 plus $10 \times 15 = 710$.
27. With four extra courts in the CFC presided over 5 days per week by Recorders and DDJs for (allowing some slippage) 46 weeks per year $\times 4$ courts = 920 court days per year.
28. On this basis the 920 days per year from the new courts plus the 710 days per year from existing salaried judges would produce 1,630 sitting days per year, broadly equal to the requirement of 1,602 sitting days per year.
29. Plainly, there are some teething and costing issues here which need to be explored in detail by HMCTS:-
- (i) There would be a need for extra administrative staff in the CFC to deal with the extra burden placed on the centre. This may be a question of redistribution rather than recruitment, but the efficiency of having the administration in one place should be beneficial.
 - (ii) There would need to be funding for the extra clerking facility in the CFC for the 4 new courts and there would need to be funding for the cost of building the four court rooms themselves. It is hoped that, in so far as this funding could not be found from the redistribution of resources from elsewhere this would be a reasonable response in the context of the very serious delays in dealing with financial remedies cases in London.
30. We commend this scheme for further development.

HHJ Edward Hess

Central Family Court

February 2022

APPENDIX A – AUTHORISED LONDON FRC JUDGES

Circuit Judges whose main base is the CFC

HHJ Edward Hess

HHJ Sarah Gibbons

HHJ Jane Evans-Gordon

HHJ Judith Hughes QC

HHJ Laura Harris

HHJ Simon Oliver

HHJ Lynn Roberts

HHJ Robert Duddridge

Circuit Judges whose main base is outside the CFC

HHJ Sue Jacklin QC - Barnet

HHJ Rachel Karp - Barnet

HHJ Madeline Reardon – East London

HHJ Sara Staite – East London

HHJ Diane Redgrave - Bromley

HHJ Kathryn Major – Croydon

HHJ David Willans – West London

District Judges whose main base is the CFC

DJ Alun Jenkins

DJ Anne Hudd

DJ Ian Mulkis

DJ Mike Cronshaw

DJ Francis Cassidy

DJ Frances Orchover

DJ Linda Ashworth

District Judges whose main base is in London, but outside the CFC

Uxbridge

DJ Intikhab Ahmed

DJ Clare Atkin (currently on long term sick leave)

DJ Peter Jordan

Kingston

DJ Richard Armstrong

DJ Janisse Hartley

DJ John Smart

Croydon

DJ Elizabeth Baker

DJ Delia Coonan

DJ Melanie Hay

DJ Graham Keating

DJ Philip Rowland

Edmonton

DJ Andrew Davies

DJ Lawrence Cohen (currently on long term sick leave)

Romford

DJ Emma Goodchild

DJ Howard Kemp

DJ Franklin Evans

Brentford

DJ Tim Jenkins

DJ Anthony Ross

DJ Anitra Hussain

Bromley

DJ Julian Cridge

DJ Beatrice Prevatt

DJ Richard Watson

Willesden

DJ Nish Kanwar

DJ Allison Griffiths

DJ Nawal Kumrai

Barnet

DJ Allison Dias

East London

DJ Martin Wright

DJ Anna Williams

DJ Philip Dixon

Recorders

Nicholas Allen QC

Nicholas Anderson

Richard Castle

Katie Cowton QC

James Roberts QC

Leslie Samuels QC

Stephen Trowell QC

Laura Moys

Anna Nice

Christopher Stirling

Simon Colton QC

Timothy Amos QC

Alexis Campbell QC

Laura Heaton

Alexander Chandler QC

Nicholas Cusworth QC

Fiona Hay

Morgan Sirikander

Andrew Tidbury

Frank Feehan QC

Kathryn Peat

David Bedingfield

Sarah Cooper

Steven Gee QC

John Brooke-Smith

Recorder Dexter Dias

DDJs

There are a large number of DDJs doing FRC work in London

APPENDIX B – SOME CASE STUDIES

1. An example of the regular pulling of lists is the experience in Edmonton in November/December 2021. Lists were pulled on 17th November 2021, 1st December 2021, 8th December 2021 and 13th December 2021. Most of the cases pulled were First Appointments. In each list five cases will have to be rescheduled, now many months hence. For these people their First Appointments will now be 8 or 9 months after issue.
2. A message from Bromley on 26th November 2021 said “*all our FRC lists are done by DDJs*”. As a consequence of this, and the regular non-availability of DDJs, it has proved impossible to list urgent FRC cases such as MPS and LASPO applications in Bromley.
3. A First Appointment hearing in East London Family Court was listed for hearing on 20th August 2021. There was no judge available and it was re-listed for the next available date on 11th March 2022, nearly a year after the Form A was issued. Another First Appointment had the same experience with a delay from 10th September 2021 to 25th February 2022.
4. In Edmonton after an unsuccessful FDR hearing in April 2021 the parties were offered a final hearing in June 2022, some 14 months later.
5. In Barnet a 6 day final hearing was pulled at the last minute on two occasions and had eventually to be accommodated in the CFC.
6. In Barnet a judge’s list of five cases had four non-effective because the local team had not sent out notices of hearing, there being an administrative confusion as to whose task this was.
7. In Uxbridge, a final hearing was listed for April 2021. It was vacated for lack of a judge and re-listed in November 2021. It was again vacated at the last minute for the lack of a judge and the parties were offered a date in September 2022. The case has been transferred to the CFC for an earlier hearing.
8. Recent information from Croydon suggests that listing an FDR currently takes more than one year.

APPENDIX C – STATISTICAL ANALYSIS CHAPTER FROM THE SECOND REPORT OF THE FARQUHAR COMMITTEE

Chapter 3 – Consideration of the Statistics/Data

Analysis and recommendations

- 3.1 There appears to be a consensus that the length of proceedings in the Financial Remedies Court is too long and they are also too expensive. In order to consider the impact of possible changes to the procedures of the FRC we took the view that it was important to have some hard data as to the present situation, rather than work on the anecdotal information that is to hand. It is not possible in this report to consider the cost of proceedings, but we have made efforts to understand the statistics so far as they relate to the length of proceedings and at what stage in the process they settle.
- 3.2 The data that we received is appended to this report at Annex B. It was provided by statisticians at the MOJ, and is based on entries into the FamilyMan system. It is not information that the MOJ routinely prepares or analyses in this form, and we are grateful to them for their assistance.
- 3.3 The first thing to note is the sheer volume of cases being considered by the Financial Remedies Court in each year. In 2019 the total was 31,350 and in 2020 the figure was 30,993. Not surprisingly there was a significant dip in the number of applications in the second quarter of 2020 but the numbers almost recovered to the 2019 levels by the end of the year. There were 8,136 contested cases in 2019 and the other 23,214 were applications for consent orders.
- 3.4 Having considered the data carefully, we think that the best that can be said about the existing data is that we must treat it with caution and it may not be wise to draw any reliable conclusions from it. This is not a criticism of the statisticians that compiled the information but rather the data gathering which occurs in Courts up and down the country. It is difficult to align the statistics with the individual experiences of the committee members. As an example the statistics show that cases are taking an average of 2 years from date of Form A to final hearing and just over 3 years in London. Whilst we all have experience of very lengthy cases it seems highly unlikely that these are correct averages. Another example is that cases that settle after First Appointment but before the next hearing are taking an average of over 45 weeks. In London the stated

length of time for settling after just the First hearing is one of 133 weeks in 2019 and 188 weeks in 2020! This can simply not be correct.

- 3.5 However, even with the current data, which is clearly problematic, it is apparent that there is much that could be done with proper information which could be used to inform decisions in the future.
- 3.6 We are concerned that accurate historical data may simply not be available but we recommend that an exercise is undertaken in compiling the data which is needed to analyse matters going forwards. This would most likely require the MOJ to commission a specific piece of work to analyse the data which is needed and thereafter the results. Once all applications are dealt with through the digital platform it will be easier to collect reliable statistics but we feel it important that the appropriate information is obtained as soon as possible to carry out the relevant analysis.
- 3.7 As an initial step, we suggest that it could be instructive to focus on one geographical area and pull the raw data for one data set (e.g. cases that settle after FA) to analyse properly the inconsistencies and why the means and medians are so difficult to follow and to test the timescales which the current data evidences, which in a number of cases is surprising and inexplicable. This exercise could focus on identifying why there are outliers and identifying the limitations of the statistical data available now to avoid in the future the same problems we have faced in analysing it now.
- 3.8 In terms of the broader exercise, we suggest that the criteria below could be used to design the scope of data which is needed for the broader analysis. We propose that the following should be collated:
 - 3.8.1 Mean number of weeks from issuing Form A to the order (a) being lodged and (b) being sealed ((a) and (b) to try to capture the separate point regarding the delay in the approval and sealing of orders);
 - 3.8.2 Median number of weeks from issuing Form A to order (a) being lodged and (b) being sealed;

- 3.8.3 Breakdown of cases which settled (a) with a Form A for dismissal purposes only (b) before a listed FA took place (c) after FA but before FDR (d) after FDR and (e) data on the number / percentage of cases which go to trial;
- 3.8.4 A point of detail: it would be interesting to have the data for cases with private FDRs – presumably they would feature in the “after FA but before FDR” category as there would be no court FDR? However, it must be possible to measure the efficacy of private FDRs more accurately. It would be good if geographical variations in terms of the use of private FDRs and the success rate of private FDRs could be properly ascertained to avoid simply anecdotal assertions on these points;
- 3.8.5 Breakdown by region (with information about how many cases there are in each data set given that small datasets can skew the results); and
- 3.8.6 Breakdown by individual courts (with information about how many cases in each data set – as above).
- 3.9 Ideally, we would seek this data for 5 years + (given the significant variations between 2019 and 2020 which we can see on the flawed data we have).
- 3.10 As well as data that can be obtained from Familyman we also are of the view that it is important to have reliable information as to the total value of the assets in cases (this is not recorded by HMCTS) and also the costs of the parties. We are all aware of many cases when the costs are totally disproportionate to the amounts in dispute, but there is no hard evidence on the issue.

Analysis of the data received

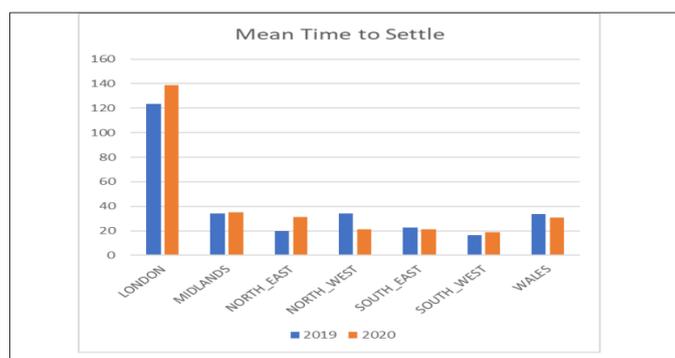
- 3.11 Set out below is a series of graphs and the accompanying figures analysing the data with which we have been provided. This comes with a health warning: that we have significant concerns regarding the accuracy and reliability of the data provided such that the graphs below cannot be relied upon. They are included here by way of illustration, to assist in scoping a future analysis and considering what approaches would be most informative. The most contentious figures appear to be those that have been provided for

London. In our calculations we have excluded those figures, which produce results which appear more realistic.

- 3.12 Appended to this report (Annex B) is an excel spreadsheet as originally provide to us in May 2021, and amended in in July 2021 to correct an error in Table 2 of the original analysis, where the calculation of cases closed with a year at columns G, M and S was incorrect.

MEAN TIME FOR CASES TO CONCLUDE – ALL CASES BY REGION 2019 & 2020
(data shown in weeks for all cases)

- 3.13 The data shows that for all contested cases the average length of proceedings was stated to be 147 weeks in 2019 and 171 weeks in 2020! As the graph below makes clear (the graph includes cases that were never contested), the numbers are hugely skewed by the London figures which were totally out of line with all other regions. If the London figures are ignored, then the figures come down to an average length of just over 62 weeks for all contested cases whenever they conclude.
- 3.14 There is a significant disparity between the regions with the average case in Wales lasting for 49.4 weeks and the Midlands 67.2 weeks. The figure for London is at 147 weeks but it is difficult to see that this could be correct.



BREAKING THIS DOWN BY HEARING

3.15 Although trends are not obvious, in general timeframes were (unsurprisingly) longer in 2020. This is clearer when looking at the same data, split by hearing type. The graphs below show cases by the last hearing type (FA, FDR, Final Hearing) in each before the case was resolved.



3.16 If we exclude the highly dubious London figures then the average time for length of proceedings which settle at various stages are:

Cases that conclude after

Which hearing	Average in Weeks	Percentage of total cases
First Hearing	41.3 weeks	29.7%
FDR	55.3 weeks	33.74%
Final Hearing	84.3 weeks	19.3%
Other hearings*	81.6 weeks	17.25%

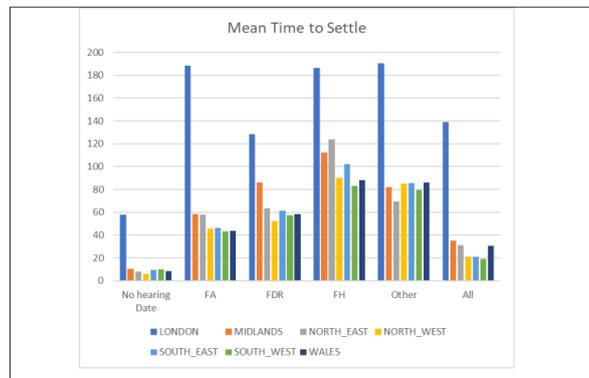
* These are any hearing other than the other 3 type of hearings that are listed. It is not stated what they are but, looking at the average time taken they must occur towards the end of the process.

3.17 If we add the 'other hearings' to the final hearings figure then it would appear that over 36% of cases do not settle until more or less the final hearing. The figures would also suggest that approximately 50% of cases that reach FDR stage settle prior to the next

hearing (as just under 30% have already settled leaving 70% to be heard of which just under 50% settle at FDR).

COMPARISON OF REGIONS

3.18 Comparison of regions - it is not obvious that one region is noticeably quicker / slower in resolving cases (save for London). The data shown in the graph here is for weeks in 2020.



3.19 If we look at the data for 2019 (to avoid the impact of Covid) then we find the following – these are the length of proceedings in weeks at the various stages and what percentage of cases settled after that type of hearing:

Region	All Cases	After FA	%of cases settled	After FDR	%of cases settled	After FH	After Other hearing	%of cases settled
London	146	133	19.9%	116	22.9%	159.0	171	25.5%
Midland	67.2	45.3	21.75%	58.4	35.8%	83.6	88.3	21.6%
North East	59.7	38.7	20.8%	49.8	34.3%	90.0	64.6	23.1%
North West	55.9	41.1	39.3%	51.6	34.9%	80.7	88.6	11.9%
South East	64.6	41.7	28.6%	57.0	31.8%	87.9	86.6	17.7%
South West	63.3	41.2	22.4%	57.7	31.6%	77.0	79.4	20.9%
Wales	49.4	38.2	45.3%	52.6	34.0%	60.7	79.9	8.4%

- 3.20 Even if we exclude London there are some significant differences within the regions with final hearings being heard on average within 60.7 weeks in Wales and 90 weeks in the North East. Further a total of 45% of cases in Wales settle after the First Appointment compared to under 21% in the North East. Whilst we cannot have certainty as to the accuracy of the figures, this highlights the need for good data collection to ensure that we can attempt to analyse why these differences exist and then attempt to produce consistency of performance throughout the country by ensuring we share best practices.

What is the spread of value of FRC cases?

- 3.21 We are all conscious of the fact that more or less all of the reported cases in Financial Remedies work involves either very large sums of money or even larger sums of money. These cases are seriously divorced from the everyday experience of judges and practitioners up and down the country.
- 3.22 We considered that in order to understand the workings of the FRC, it was necessary to attempt to discover the true value of the cases that were being heard and indeed those that were settling by way of consent orders, without any hearing. There was very little in the way of statistical evidence on this front. The FamilyMan system within HMCTS does not record the value of cases. Is there a difference between the value of cases that are contested and those that settle? If a Fast Track procedure is introduced, as advocated in this report, then how many cases would be affected if we selected the threshold as £250,000 or £500,000?
- 3.23 In an effort to fill this void we sent a questionnaire to every Judge that is approved to sit in the FRC and asked them to record the value of cases that they dealt with over a two week period in August 2021. It is accepted that this method would not stand up to a rigorous statistical analysis, but it is hoped that it will provide a rough guide to the level of work being carried out at present. It is accepted that a more thorough process will have to be undertaken in due course.
- 3.24 We are extremely grateful to all of those judges that replied as we are aware of the pressures on all levels of judiciary at present and that they have been subject to numerous