

Modernisation of Family Justice: Does the Right Hand Know What the Right Hand is Doing?

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In the last 5 years Family Law has experienced fundamental changes following the LASPO removal of virtually all Family legal aid: these changes have included compulsory mediation, de-linking of children issues and financial provision, central divorce filing, transparency and automatic publishing of all judgments unless prohibited by the judge, the growth of family arbitration as a faster and cheaper alternative to court proceedings, closure and sale of many court buildings and the Briggs Reports' proposals for radical reduction of hearings in plans for full digital automation of the Family Court by 2020. In one of his Views 'from the President's Chambers' on these radical reforms which have relentlessly followed the LASPO cuts and the rise of an army of Litigants in Person, the President of the Family Division described those already eye watering innovations as a 'more fundamental programme of changes than for 60 years', and at the annual Family Law Bar Association Dinner at Middle Temple on 26 February 2016 he announced 'a new phase of reform... so fundamental that in retrospect the great reforms implemented in April 2014 [i.e. the inauguration of the Family Court] will seem modest in comparison'. He has since been saying we have not seen anything yet!

All this sounds as though Family Justice is moving with the times while sluggish civil justice seems not to be keeping up, but it has alarmed some practitioners and researchers to the extent that the Centre for Child and Family Law Reform's research committee, sponsored by City University, has embarked on an assessment of whether the Family Court is fit for purpose and the Westminster Policy Forum conferences have now scheduled an event for 25 April 2018 entitled 'Where is Family Justice Going?' (a question actually already asked by my paper in the Family Section at the SLS conference in Oxford in 2016).

This latest paper critically examines the automation scheme now proposed, analysing (i) how the existing reforms of Family Justice could have been more successfully undertaken without creating so many extra layers of unfamiliarity; (ii) how the next tranche of change could be better managed, preferably at last including some much needed legislation which has been neglected in the era of Brexit and non-lawyer Lord Chancellors, and especially with the prospect of the retirement in 2018 of Sir James Munby, for whose steady hand as President the government has clearly had much to be thankful for in these unsettled times.