



Ministry
of Justice

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Association of Lawyers for Children
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~~Mod ref: JT / Family Justice Policy~~

By Post and Email

2 January 2018

Dear Ms Fottrell and Mr Arnold,

**LEGAL ADVICE AND ASSISTANCE CONCERNING POTENTIAL MANIPULATION
OF DRUG AND ALCOHOL TEST RESULTS**

Thank you for your letter dated 7 December 2017 to my colleague Joanne Thambyrajah, and for keeping your members informed about this issue. I note your continued concerns about the availability of legal aid for those potentially affected by the alleged manipulation of drug and alcohol test results, and appreciate your helpful suggestions on this matter.

The number of people who may wish to apply to the family court given concerns about hair strand test results and the types of cases potentially affected are currently unknown. I understand your concerns about no adaption to the legal aid scheme. The current position remains that individuals will continue to be assessed for their eligibility for legal aid within the existing legislative framework. The Lord Chancellor recently announced a post-implementation review of the Legal Aid, Sentencing, and Punishment of Offenders Act 2012 (LASPO). Making amendments to legislation in advance of a proper understanding of the issues at hand risks prejudicing the outcome of this review. Your suggestions will be taken into account as part of this review.

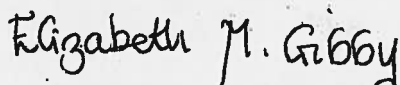
In respect of your suggestion to issue detailed guidance on how the court will consider any applications, you will be aware that there are a range of options available to the judiciary in dealing with any applications made using the bespoke procedure on Form C650. We do not think it is appropriate to limit the options available to the judiciary given the extensive case management powers available to the court. These applications are issued under Part 18 of the Family Procedure Rules 2010 with the judiciary having the full range of case management powers available to them as they consider appropriate to the ~~circumstances of the case. The Ministry of Justice will continue to review the process with the senior~~ judiciary to ensure it is appropriate to court users, as more information is known about the types and numbers of cases affected by this issue and the nature of any adverse impacts identified. I note you are liaising with the Law Society to consider what guidance they wish to issue in respect of this matter. We appreciate any assistance practitioners are able to give individuals potentially affected by this issue.

Finally, you question what the Ministry of Justice's intentions are to manage this issue practically going forward. Practices at both Trimega Laboratories Limited and Randox Testing Services are the subject of an on-going criminal investigation, and we are dependent on the police for information. Clearly, it is inappropriate for the Ministry of Justice to engage in any action that might potentially impact on the police investigation.

As you are aware the family court deals with a significant volume of applications per year, and, in recent times, has dealt with public law and private law proceedings at record levels of demand. As referred to in the Written Ministerial Statement by Nick Hurd MP on 21 November 2017, Trimega Laboratories Limited had extremely poor record-keeping practices. We are alive to the possibility that it may never be possible to identify a reliable list of Trimega Laboratories Limited's customers. Given this uncertainty the Ministry of Justice decided to implement a bespoke court process to assist persons who believe they were affected by this issue. Due to the volume of cases dealt with in the relevant period of time, and the lack of any reliable information about which cases are directly affected by the alleged manipulation, it is not practicable to undertake a review of individual court files.

In respect of cases tested by Randox Testing Services, the Ministry of Justice is working with the Department of Education to identify any test results affected by the manipulation relating to family cases. This work remains on-going and it is not possible to give a timescale for when we will receive this information. The Ministry of Justice will consider what steps, if any, are required upon this information being shared with us.

Yours sincerely,



Dr Elizabeth Gibby
Deputy Director Family Justice Policy