



JUDICIARY OF
ENGLAND AND WALES

**HER HONOUR JUDGE WALKER
DESIGNATED FAMILY JUDGE FOR COVENTRY AND WARWICKSHIRE**

APRIL 2021

LOCAL PRACTICE GUIDANCE

This local practice guidance is being circulated in response to a number of recent developments, along with a growing awareness that remote hearings are likely to be with us, in some form or other, into the medium/long term. It is to be read alongside the updated Wellbeing Protocol for this court.

The Developments

All practitioners will now be aware of the Recommendations to Achieve Best Practice in the Child Protection and Family Justice Systems final report issued by the Public Law Working Group under the guidance of Mr Justice Keehan. Alongside that report, the Working Group has issued separate guidance relating to the application and case management, s20 accommodation, and special guardianship. This guidance is intended to start to address some of the recommendations of those reports, although it is recognised that much of that guidance requires co-operation and change within all of those engaged in the family justice system. The report envisages a greater role for our Local Family Justice Board as a means of delivering those changes.

In addition, we are all now 12 months into remote working, and short-term adaptations are likely to start to become long-term changes in conduct of hearings. Further, we are all adapting to the roll-out of the on-line platform for the conduct of care proceedings under the Reform Project.

Urgent Applications

Until everyone is confident with the on-line platform, urgent applications (which require a hearing within 24 hours) can continue to be issued in the traditional way. This will be reviewed on a regular basis, and practitioners notified when these applications should also be issued digitally.

The BPG notes the difficulties with urgent hearings (CAFCASS are unlikely to have been able to conduct proper independent enquiries, limited opportunity for the parents to seek legal advice and pressure on court staff and judges to accommodate a hearing).

Every urgent application should be accompanied by clear evidence of the urgency. The information form at p135 of the BPG guidance should be used in all cases where an urgent hearing is sought.

The local authority should make every effort to provide as much notice of an application to CAFCASS, including the contact details of all the Respondents and the

contact details of the allocated social worker. If an urgent hearing is listed, every effort should be made to utilise that hearing to give effective case management directions.

Advocates meetings

Since hearings moved to being remote, these meetings have taken on increased significance.

Agenda templates are included in the BPG and should be utilised.

The agreed minute of the advocate meeting held prior to CMH should be filed in advance of the hearing.

Where matters have been agreed at an advocates meeting, a composite document should be prepared, together with a draft consent order.

Case Management Orders

The current CMO should be used for the CMH, but thereafter, a short form CMO should be used (see paragraph 183 of the BPG for the suggested contents of that order). Orders should always be sent into the court within 24 hours of the hearing unless the permission of the court is sought.

Case summaries and position statements

The BPG commends the templates annexed to the report. These should be used in most cases. Case summaries should not repeat all the background information, nor what has happened at each previous hearing unless relevant to the issues to be determined. Position statements should be focused and concise. Both should be included in the bundle if possible.

Bundles

Bundles should be compliant the PD27A, limited to 350 pages unless permission has been given by the allocated judge. It should contain the case summary and position statements, be bookmarked and should be filed with the court by no later than 12 noon on the day before the hearing.

When translation of documents is required, the general position should be that the local authority should be required to provide translated copies of the key documents/summaries but additional documents should be translated through the parents' legal aid certificate.

Emails to Judges

If emailing a document to a judge directly, please ensure that the subject line of the email includes both the name of the case and also the case number.

Listing of final hearings

This court has long adopted the approach of only listing to IRH, so that the issues to be determined are clear before court time is set aside for a final hearing. This will continue.

Default notices

These continue to be a highly effective way of bringing issues of non-compliance to the attention of the court, and seeking an amendment to the timetable by consent, or seeking a hearing in the compliance court. Which option sought should be clearly set out on the default notice, and if a consent order is proposed, a draft order should be attached. Default notices should not be used to inform the court about contentious

issues that require a hearing. Those matters should be dealt with by way of a C2 in the normal way.

Remote hearings

The court will continue to facilitate hearings by way of CVP/Teams and less frequently, by telephone. The local authority should ensure that the fully completed remote booking form is filed with the court by 12 noon the day before the hearing. All participants to a video hearing should have their camera turned on unless permission to turn it off is sought from the Judge. If a lay party requires to be joined by telephone, their details should also be included. Otherwise, the instructions to join the video hearing can be forwarded on by the representative concerned.

The on-line platform

Local authorities are expected to upload the bundle and case management documents in accordance with the Practice Direction and this guidance. They will not be expected to provide a separate link to the bundle. All practitioners must ensure that they have the ability to log-on to the service.

FDAC

If the parties consider that a case may be suitable for FDAC, they should ensure that FDAC is asked for their view before the case is re-allocated.

Best Interests Decision

ACE have indicated that they require three weeks from the filing of the final evidence to be able to provide a best interests decision. The local authority must ensure that the BID is booked well in advance so as to avoid unnecessary delay, and it may also assist the parties and the court for the date to be recorded in the CMH order.

Mediation



Mediation vouchers
pilot PDF.pdf

Please note the amended practice direction extended the pilot for a £500 voucher towards the costs of mediation.

The Adolescent Project

With a sense of regret, we have decided to suspend the Adolescent Project for the time being. In large part, this is as a result of the increased pressure on limited judicial resources, although it is right to say that the pandemic has meant that face to face visits have proved more problematic to arrange. The BPG recognises the crucial importance of the voice of the child being heard, and all of our judges remain committed to meeting with children where appropriate and communicating the outcome of decisions in a meaningful way. We will review the position further in the Autumn.

Rights of Audience

In October 2019, this court issued a local protocol in relation to Rights of Audience. After consultation with Mrs Justice Knowles, this protocol is withdrawn with immediate effect.

Thank you all for your on-going commitment, hard work and determination.

With my very best wishes

Elizabeth Walker