

The Family Court at Coventry
Well Being Protocol
Ensuring Family Practice is Consistent with Health and Welfare

INTRODUCTION

The Family Justice System is dealing with an unprecedented workload. That increased workload affects litigants, professionals, practitioners, court staff and members of the judiciary. In addition, since March 2020, we have all had to adapt to remote hearing, remote working and the isolation that stems from largely being absent from the court room.

The impact of this workload has been magnified through the development and use electronic communication, which tempts many into a 'by return, twenty-four seven, last minute' culture of working.

If we are to manage workloads effectively and continue to serve the children and families who come before the courts on the Midlands Circuit, all those working in the system must ensure that they are mindful of their own wellbeing. Given the interconnected nature of the system, this involves everyone endeavouring to invest in the measures suggested herein.

This document is intended to benefit all members of the judiciary, court staff, practitioners and professionals involved in the administration of Family Justice with a view to increasing wellbeing, reducing unnecessary stress and achieving a better work life balance.

It is the hope and expectation of the Local Family Justice Board that members of the judiciary, court staff, practitioners and professionals will work together to achieve the steps set out in this document. We all recognise that a court-room is a stressful environment, particularly for those who are not used to it. Everyone is reminded of the need to remain professional, polite and understanding at all times.

RESPECT AND COURTESY

(1) All court users should be courteous, patient, tolerant, punctual and respect the dignity of all. No person involved in proceedings should be exposed to any display of prejudice which includes, but are not limited to, race, colour, sex, religion, national origin, caste, disability, age, marital status, pregnancy or maternity, sexual orientation, social and economic status and other like causes.

(2) Any court user should be enabled to participate fully in the process. Whilst professionals can expect their professional opinion challenged during court hearings, they should not be subjected to abuse or personalised remarks or disrespectful comments.

(3) All court users should be mindful that information is sensitive and confidential. Names of participants and their families should not be visible on documentation or audible in discussions. Particular care should be taken in any discussions that have to take place in a public area, due to the lack of consultation rooms.

(4) Judicial bullying is unacceptable.

LISTING:

(5) Listing is and remains a judicial function.

(6) Listing should be to available judicial resources.

(7) Any temptation to over-list to 'get through the work' is to be resisted. Where there is pressure on the list, it is the *list* that should give way and *not* the wellbeing of judge's, court staff, practitioners and professionals.

(8) Judges, court staff, professionals and practitioners have a reasonable entitlement to a lunch break. Lunch breaks should be used for lunch. The time for such a break in Coventry must take account of the fact that most people will need to leave the court building to obtain their lunch as there is no café available in the court building. Ideally, the lunch break should be between 1pm and 2pm and, in any event, for an hour.

(9) Court hearings should not commence before 10am and should end at 4.30pm, with an absolute cut off at 5pm (save in *exceptional* circumstances and for those attending the compliance court). It is not unreasonable for judges, court staff, practitioners and professionals to expect to be able to return home in time to fulfil other commitments. No one should be expected to have to reveal details of their professional or personal commitments. Remote hearings have not altered this general principle.

(10) Time estimates for final hearings should always include reading time and time for delivering the judgment. The trial judge will be assisted by the advocates at IRH as to whether reading time is necessary for the final hearing. Time estimates are always contingent on the court's other commitments.

- (11) For urgent hearings, it is most helpful for other parties to be provided with as much notice as possible of the application. It is not necessary to await the notice of hearing for this notice to be given, if contact details are available. In relation to urgent care applications, it is most helpful for the appointed Guardian and social worker to be able exchange contact details as soon as practically possible. The parties should complete the information form setting out the urgent need for a hearing.

WORKING PRACTICES:

- (12) There should no longer be an expectation that judges, lawyers or professionals will work late into the night and for significant parts of a weekend, or while on leave in order to deal with workloads or meet deadlines. All should adapt to this position. Late delivery of instructions to counsel may impact on an advocate's ability to prepare written documentation that would otherwise assist the court.
- (13) A 'last minute' work culture increases hugely stress on individuals. The availability of electronic communication does *not* justify the late delivery of instructions, evidence, information etc. Such an approach creates high levels of pressure on practitioners, professionals, judges and court staff and increases the need to work outside work hours.
- (14) Within this context, PD27A requires bundles be delivered to court 2 days in advance and papers be delivered to advocates 3 working days in advance. It is not reasonable to expect people to digest hundreds of pages of evidence the night before a hearing or, worse, on the morning of the hearing. The party preparing the bundle should provide a paginated index to the other parties 4 days in advance of the hearing.
- (15) The sending of work-related emails should ideally be confined to business hours. *In any event*, there should be no expectation of a *response* after 6pm or before 9am. There should be no expectation of a response if someone is on holiday and has an 'out of office' reply active. Advocates are encouraged to adopt the FLBA guidance in relation to implementing a delay on emails that they may draft outside of work hours.
- (16) 'Reply All' responses to emails should be avoided where possible. *Only* those directly concerned with the relevant communication should be included.

DOCUMENTATION:

- (17) Case summaries should be short and focused on the immediate issues with which the hearing is concerned.

- (18) Position Statements should omit summaries of the background (which can be placed in the Case Summary) and ordinarily should be limited to one side of A4 and to a maximum of three sides of A4, setting out the parties' position using bullet points in respect of the immediate issues.
- (19) Witness Statements should avoid repetition of matters contained in earlier statements and should concentrate on the issues that they are directed to address.
- (20) At the request of the solicitor for the child, and if agreed between the Children's Guardian and the solicitor, it may be acceptable for the child's solicitor to file and serve a position statement on behalf of the Children's Guardian, except for cases involving contested removal applications, complex matters, where there is an issue of separate representation, final hearings and Issues Resolution hearings. An initial analysis is always helpful to the court, even if it is filed after the first Case Management Hearing.
- (21) CAFCASS Guardians are unlikely to be able to attend at fact-findings hearings and their attendance should generally be excused.

CASE MANAGEMENT:

- (22) This document does not change to the statutory requirement to complete proceedings in 26 weeks. However, the Court should be astute to approve realistic timeframes that can be achieved by solicitors and social workers, which will take account of their professional and personal circumstances.
- (23) With a view to maximizing the efficacy of hearings, advocates' meetings need to be attended by the advocate or legal representative who is fully instructed in their client's case. That representative will use their best endeavours to ensure that they have consulted with the advocate instructed to attend the hearing. Draft orders should be available for discussion at Advocates' Meetings. Advocates will be assisted in using the Agendas approved by the BPG.
- (24) The non-attendance of professionals such as the Children's Guardian and social workers will be considered in appropriate circumstances, provided that the advocate at the hearing has full instructions.

- (25) Non-compliance with orders adds to pressure upon judges, court staff, practitioners and professionals. Case management orders must be complied with and where compliance is not going to be achieved an application to vary the relevant direction must be made before the time for compliance expires.
- (26) Parties to care proceedings in Coventry are encouraged to use the compliance court at the earliest possible time in the event of default.

ORDERS:

- (27) Now having received the outcome of the President's Working Party and the guidance from Lord Justice Mostyn, orders should simply set out the following information (as recommended by para 183 of the BPG):
- (i) The header (the court, identity, sex and dates of birth of each child with whom the court is concerned, the identity of the judge, and date and type of the hearing);
 - (ii) The parties, representation and their contact details;
 - (iii) Any penal notice or warning notice;
 - (iv) Any recitals;
 - (v) The orders made.
- (28) Longer form orders should only be used at the first Case Management Hearing and/or the first Interim care application hearing.
- (29) If time at court permits, amendments to orders should be drafted and agreed *before* parties leave court in order to avoid lengthy email exchanges following the hearing. After a remote hearing, it is preferable for advocates to re-join a remote link in order to agree the terms of the order so as to avoid the local authority advocate being barraged with amendments by email. The order should be submitted to the court within 24 hours of the hearing unless otherwise provided for by the court.

REMOTE HEARINGS

- (30) Remote hearings have brought with them additional pressures. It is even more important than ever that time is given to the advocates and parties to have time away from the screen, with appropriate breaks and a proper lunch adjournment. Given that lay parties are often separated from their representative, it is even more important that time is given

for instructions to be taken, both in advance of the hearing, or in the event that an issue arises that had not been anticipated.

- (31) Contact details of the advocates and parties wishing to attend should be provided to the local authority on the day before the hearing so that the remote booking form can be properly completed.
- (32) The court and the parties would be assisted if everyone could ensure that they are ready to join the remote hearing five minutes in advance of the listing.
- (33) It is recognised that the pressures currently felt are likely to increase, and not diminish, as parties begin to attend more face to face hearings and return to the office. This is particularly true in relation to CAFCASS, as they start to undertake visits once again.

COMPLAINTS

- (34) All those who work at Coventry Family Court should be encouraged to take the content of this protocol seriously. To that end, professionals and practitioners should feel able to raise legitimate complaints about conduct that is in breach of it.
- (35) If the behaviour complained of is in relation to another professional, the first point of contact for the making of a complaint should be their senior management or partner, or their professional body.
- (36) If the complaint is in relation to judicial conduct, it should be made in the first instance to the judge concerned. If this approach is unsuccessful, or if the person concerned does not feel able to speak directly to the judge, then professionals are encouraged to raise their concerns with the “Happiness Zsar” who shall be a judge who sits in Coventry who has been approved by the court users to be responsible for well-being issues.
- (37) Those who are concerned about compliance with the protocol can ask for their complaint to be dealt with confidentially.
- (38) In the event of a complaint against a member of the court staff, court users are referred to the two complaints procedures below

<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/complaints-procedure>

<https://intranet.justice.gov.uk/about-hmcts/customer-engagement/complaints-and-correspondence-handling/>

Those attending the meeting of the Wellbeing Committee when this Protocol was agreed:

Her Honour Judge Walker

Sarah Bryant (Charles Strachan solicitors)

Judy Schmid (Penmans solicitors)

Emma Kendall (St Philips Chambers)

Richard Dickinson (Coventry City Council)

Misha Martin (Warwickshire County Council)

Abigail Taylor (HMCTS)

Emma Hurney (Practice Supervisor CAFCASS)

Gargi Rawat (HMCTS)

APPENDIX II



In the Coventry Family Court
sitting at _____

Case no.

The Children Act 1989

The children

[] [Boy/Girl] [dob]]
[] [Boy/Girl] [dob]]

CASE MANAGEMENT ORDER MADE BY _____ AT A CMH/IRH ON THE

CMO NO. [____]

The parties and representation at this hearing

1. The applicant is _____, represented by _____, Counsel, instructed by _____, whose contact details are:

The first respondent is _____, the mother, she is represented by _____, Counsel, instructed by _____ whose contact details are:

The second respondent is _____, the father represented by _____, Counsel instructed by _____ whose contact details are:

The third respondents are the children by their children's guardian _____ represented by _____, whose contact details are:

Important notices

Confidentiality warning

The names of the family and the children are not to be disclosed in public without the court's permission.

Compliance warnings

All parties must immediately inform the allocated judge as soon as they become aware that any direction given by the court cannot be complied with and to seek in advance an extension of time to comply.

In the event that a party fails to comply with directions and/or fails to attend any hearing without good reason the court may make final orders including care orders and placement orders at that hearing.

RECITALS:

1. UPON.../

IT IS ORDERED THAT:

1. .../

Dated:



cmh agenda
master.docx



IRH Agenda Master
10 08 17.docx