

# URGENT BUSINESS

## This Practice Direction supplements FPR Part 12

### Introduction

- 1.1** This Practice Direction describes the procedure to be followed in respect of urgent and out of hours cases in the Family Division of the High Court. For the avoidance of doubt, it does not relate to cases in respect of adults.
- 1.2** Urgent or out of hours applications, particularly those which have become urgent because they have not been pursued sufficiently promptly, should be avoided. A judge who has concerns that the urgent or out of hours facilities may have been abused may require a representative of the applicant to attend at a subsequent directions hearing to provide an explanation.
- 1.3** Urgent applications should whenever possible be made within court hours. The earliest possible liaison is required with the Clerk of the Rules who will attempt to accommodate genuinely urgent applications (at least for initial directions) in the Family Division applications court, from which the matter may be referred to another judge.
- 1.4** When it is not possible to apply within court hours, contact should be made with the security office at the Royal Courts of Justice (020 7947 6000 or 020 7947 6260) who will refer the matter to the urgent business officer. The urgent business officer can contact the duty judge. The judge may agree to hold a hearing, either convened at court or elsewhere, or by telephone.
- 1.5** When the hearing is to take place by telephone it should, unless not practicable, be by tape-recorded conference call arranged (and paid for in the first instance) by the applicant's solicitors. Solicitors acting for potential applicants should consider having standing arrangements with their telephone service providers under which such conference calls can be arranged. All parties (especially the judge) should be informed that the call is being recorded by the service provider. The applicant's solicitors should order a transcript of the hearing from the service provider. Otherwise the applicant's legal representative should prepare a note for approval by the judge.

### General Issues

- 2.1** Parents, carers or other necessary respondents should whenever possible be given the opportunity to have independent legal advice or at least to have access to support or counselling.
- 2.2** In suitable cases, application may be made for directions providing for anonymity of the parties and others involved in the matter in any order or subsequent listing of the case. Exceptionally, a reporting restriction order may be sought.
- 2.3** Either the Official Solicitor or Cafcass, or CAF/CASS CYMRU, as the case may be, may be invited by the court to be appointed as advocate to the court.

## **Medical treatment and press injunction cases**

- 3.1** It may be desirable for a child who is the subject of such proceedings to be made a party and represented through a children's guardian (usually an officer of Cafcass or a Welsh Family Proceedings Officer). Cafcass and CAFCASS CYMRU stand ready to arrange for an officer to accept appointment as a children's guardian. They should be contacted at the earliest opportunity where an urgent application is envisaged. For urgent out of hours applications, the urgent business officer will contact a representative of Cafcass. CAFCASS CYMRU is not able to deal with cases that arise out of office hours and those cases should be referred to Cafcass who will deal with the matter on behalf of CAFCASS CYMRU until the next working day. A child of sufficient understanding to instruct his or her own solicitor should be made a party and given notice of any application.
- 3.2** Interim declarations/orders under the wardship jurisdiction or Children Act 1989 may be made on application either by an NHS trust, a local authority, an interested adult (where necessary with the leave of the court) or by the child if he or she has sufficient understanding to make the application.

## **Consultation with Cafcass, CAFCASS CYMRU and Official Solicitor**

- 4.1** Cafcass, CAFCASS CYMRU and members of the Official Solicitor's legal staff are prepared to discuss cases before proceedings are issued. In all cases in which the urgent and out of hours procedures are to be used it would be helpful if the Official Solicitor, Cafcass or CAFCASS CYMRU have had some advance notice of the application and its circumstances.
- 4.2** Enquiries about children cases should be directed to the duty lawyer at Cafcass National Office, 6th Floor, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, telephone: 0844 353 3350, fax number: 0844 353 3351. Enquiries should be marked 'F.A.O High Court Team or F.A.O. HCT'.
- 4.3** Enquiries about children cases in Wales should be directed to the Social Care Team, Legal Services, Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ, telephone: 02920 823913, fax no. 02920 826727.
- 4.4** Medical and welfare cases relating to an adult lacking capacity in relation to their medical treatment or welfare are brought in the Court of Protection. Enquiries about adult medical and welfare cases should be addressed to a Court of Protection healthcare and welfare lawyer at the office of the Official Solicitor, 81 Chancery Lane, London WC2A 1DD, telephone 0207 911 7127, fax number: 0207 911 7105, e-mail: enquiries@offsol.gsi.gov.uk. Reference should also be made to Practice Direction E, accompanying Part 9 of the Court of Protection Rules 2007, and to Practice Direction B accompanying Part 10 of those Rules. Information for parties and practitioners is available on the website of the Ministry of Justice [www.justice.gov.uk](http://www.justice.gov.uk) and general information for members of the public is available on [www.direct.gov.uk](http://www.direct.gov.uk)