

PRACTICE DIRECTION 27A

FAMILY PROCEEDINGS : COURT BUNDLES (UNIVERSAL PRACTICE TO BE APPLIED IN ALL COURTS OTHER THAN THE FAMILY PROCEEDINGS COURT)

- 1.1** The President of the Family Division has issued this practice direction to achieve consistency across the country in all family courts (other than the Family Proceedings Court) in the preparation of court bundles and in respect of other related matters.

Application of the practice direction

- 2.1** Except as specified in paragraph 2.4, and subject to specific directions given in any particular case, the following practice applies to –
- (a) all hearings of whatever nature (including but not limited to hearings in family proceedings, CPR Part 7 and Part 8 claims and appeals) before a judge of the Family Division of the High Court wherever the court may be sitting;
 - (b) all hearings in family proceedings in the Royal Courts of Justice ('RCJ');
 - (c) all hearings in the Principal Registry of the Family Division ('PRFD') at First Avenue House; and
 - (d) all hearings in family proceedings in all other courts except for Family Proceedings Courts.
- 2.2** 'Hearings' includes all appearances before a judge or district judge, whether with or without notice to other parties and whether for directions or for substantive relief.
- 2.3** This practice direction applies whether a bundle is being lodged for the first time or is being re-lodged for a further hearing (see paragraph 9.2).
- 2.4** This practice direction does not apply to –
- (a) cases listed for one hour or less at a court referred to in paragraph 2.1(c) or 2.1(d); or
 - (b) the hearing of any urgent application if and to the extent that it is impossible to comply with it.
- 2.5** The Designated Family Judge responsible for any court referred to in paragraph 2.1(c) or 2.1(d) may, after such consultation as is appropriate (but in the case of hearings in the PRFD at First Avenue House only with the agreement of the Senior District Judge), direct that in that court this practice direction shall apply to all family proceedings irrespective of the length of hearing.

Responsibility for the preparation of the bundle

- 3.1** A bundle for the use of the court at the hearing shall be provided by the party in the position of applicant at the hearing (or, if there are cross-applications, by the party whose application was first in time) or, if that person is a litigant in person, by the first listed respondent who is not a litigant in person.

3.2 The party preparing the bundle shall paginate it. If possible the contents of the bundle shall be agreed by all parties.

Contents of the bundle

4.1 The bundle shall contain copies of all documents relevant to the hearing, in chronological order from the front of the bundle, paginated and indexed, and divided into separate sections (each section being separately paginated) as follows –

- (a)** preliminary documents (see paragraph 4.2) and any other case management documents required by any other practice direction;
- (b)** applications and orders;
- (c)** statements and affidavits (which must be dated in the top right corner of the front page);
- (d)** care plans (where appropriate);
- (e)** experts' reports and other reports (including those of a guardian, children's guardian or litigation friend); and
- (f)** other documents, divided into further sections as may be appropriate.
Copies of notes of contact visits should normally not be included in the bundle unless directed by a judge.

4.2 At the commencement of the bundle there shall be inserted the following documents ('the preliminary documents') –

- (i)** an up to date summary of the background to the hearing confined to those matters which are relevant to the hearing and the management of the case and limited, if practicable, to one A4 page;
- (ii)** a statement of the issue or issues to be determined (1) at that hearing and (2) at the final hearing;
- (iii)** a position statement by each party including a summary of the order or directions sought by that party (1) at that hearing and (2) at the final hearing;
- (iv)** an up to date chronology, if it is a final hearing or if the summary under (i) is insufficient;
- (v)** skeleton arguments, if appropriate, with copies of all authorities relied on; and
- (vi)** a list of essential reading for that hearing.

4.3 Each of the preliminary documents shall state on the front page immediately below the heading the date when it was prepared and the date of the hearing for which it was prepared.

4.4 The summary of the background, statement of issues, chronology, position statement and any skeleton arguments shall be cross-referenced to the relevant pages of the bundle.

4.5 The summary of the background, statement of issues, chronology and reading list shall in the case of a final hearing, and shall so far as practicable in the case of any other hearing, each consist of a single document in a form agreed by all parties. Where the parties disagree as to the content the fact of their disagreement and their differing contentions shall be set out at the appropriate places in the document.

4.6 Where the nature of the hearing is such that a complete bundle of all documents is unnecessary, the bundle (which need not be repaginated) may comprise only those documents necessary for the hearing, but –

- (i)** the summary (paragraph 4.2(i)) must commence with a statement that the bundle is limited or incomplete; and

(ii) the bundle shall if reasonably practicable be in a form agreed by all parties.

4.7 Where the bundle is re-lodged in accordance with paragraph 9.2, before it is re-lodged –

- (a) the bundle shall be updated as appropriate; and
- (b) all superseded documents (and in particular all outdated summaries, statements of issues, chronologies, skeleton arguments and similar documents) shall be removed from the bundle.

Format of the bundle

5.1 The bundle shall be contained in one or more A4 size ring binders or lever arch files (each lever arch file being limited to 350 pages).

5.2 All ring binders and lever arch files shall have clearly marked on the front and the spine –

- (a) the title and number of the case;
- (b) the court where the case has been listed;
- (c) the hearing date and time;
- (d) if known, the name of the judge hearing the case; and
- (e) where there is more than one ring binder or lever arch file, a distinguishing letter (A, B, C etc).

Timetable for preparing and lodging the bundle

6.1 The party preparing the bundle shall, whether or not the bundle has been agreed, provide a paginated index to all other parties not less than 4 working days before the hearing (in relation to a case management conference to which the provisions of the Public Law Protocol [2003] 2 FLR 719 apply, not less than 5 working days before the case management conference).

6.2 Where counsel is to be instructed at any hearing, a paginated bundle shall (if not already in counsel's possession) be delivered to counsel by the person instructing that counsel not less than 3 working days before the hearing.

6.3 The bundle (with the exception of the preliminary documents if and insofar as they are not then available) shall be lodged with the court not less than 2 working days before the hearing, or at such other time as may be specified by the judge.

6.4 The preliminary documents shall be lodged with the court no later than 11 am on the day before the hearing and, where the hearing is before a judge of the High Court and the name of the judge is known, shall at the same time be sent by e-mail to the judge's clerk.

Lodging the bundle

7.1 The bundle shall be lodged at the appropriate office. If the bundle is lodged in the wrong place the judge may –

- (a) treat the bundle as having not been lodged; and
- (b) take the steps referred to in paragraph 12.

7.2 Unless the judge has given some other direction as to where the bundle in any particular case is to be lodged (for example a direction that the bundle is to be lodged with the judge's clerk) the bundle shall be lodged –

- (a) for hearings in the RCJ, in the office of the Clerk of the Rules, Room TM 9.09, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand);
 - (b) for hearings in the PRFD at First Avenue House, at the List Office counter, 3rd floor, First Avenue House, 42/49 High Holborn, London, WC1V 6NP (DX 396 Chancery Lane); and
 - (c) for hearings at any other court, at such place as may be designated by the Designated Family Judge or other judge at that court and in default of any such designation at the court office of the court where the hearing is to take place.
- 7.3** Any bundle sent to the court by post, DX or courier shall be clearly addressed to the appropriate office and shall show the date and place of the hearing on the outside of any packaging as well as on the bundle itself.

Lodging the bundle – additional requirements for cases being heard at First Avenue House or at the RCJ

8.1 In the case of hearings at the RCJ or First Avenue House, parties shall –

- (a) if the bundle or preliminary documents are delivered personally, ensure that they obtain a receipt from the clerk accepting it or them; and
- (b) if the bundle or preliminary documents are sent by post or DX, ensure that they obtain proof of posting or despatch.
The receipt (or proof of posting or despatch, as the case may be) shall be brought to court on the day of the hearing and must be produced to the court if requested. If the receipt (or proof of posting or despatch) cannot be produced to the court the judge may (i) treat the bundle as having not been lodged and (ii) take the steps referred to in paragraph 12.

8.2 For hearings at the RCJ –

- (a) bundles or preliminary documents delivered after 11 am on the day before the hearing will not be accepted by the Clerk of the Rules and shall be delivered –
 - (i) in a case where the hearing is before a judge of the High Court, directly to the clerk of the judge hearing the case;
 - (ii) in a case where the hearing is before a Circuit Judge, Deputy High Court Judge or Recorder, directly to the messenger at the Judge's entrance to the Queen's Building (with telephone notification to the personal assistant to the Designated Family Judge, 020 7947 7155, that this has been done).
- (b) upon learning before which judge a hearing is to take place, the clerk to counsel, or other advocate, representing the party in the position of applicant shall no later than 3pm the day before the hearing –
 - (i) in a case where the hearing is before a judge of the High Court, telephone the clerk of the judge hearing the case;
 - (ii) in a case where the hearing is before a Circuit Judge, Deputy High Court Judge or Recorder, telephone the personal assistant to the Designated Family Judge; to ascertain whether the judge has received the bundle (including the preliminary documents) and, if not, shall organise prompt delivery by the applicant's solicitor.

Removing and re-lodging the bundle

- 9.1** Following completion of the hearing the party responsible for the bundle shall retrieve it from the court immediately or, if that is not practicable, shall collect it from the court within five working days. Bundles which are not collected in due time may be destroyed.
- 9.2** The bundle shall be re-lodged for the next and any further hearings in accordance with the provisions of this practice direction and in a form which complies with paragraph 4.7.

Time estimates

- 10.1** In every case a time estimate (which shall be inserted at the front of the bundle) shall be prepared which shall so far as practicable be agreed by all parties and shall –
- (a) specify separately (i) the time estimated to be required for judicial pre-reading and (ii) the time required for hearing all evidence and submissions and (iii) the time estimated to be required for preparing and delivering judgment; and
 - (b) be prepared on the basis that before they give evidence all witnesses will have read all relevant filed statements and reports.
- 10.2** Once a case has been listed, any change in time estimates shall be notified immediately by telephone (and then immediately confirmed in writing) –
- (a) in the case of hearings in the RCJ, to the Clerk of the Rules;
 - (b) in the case of hearings in the
 - (c) in the case of hearings elsewhere, to the relevant listing officer.

Taking cases out of the list

- 11.1** As soon as it becomes known that a hearing will no longer be effective, whether as a result of the parties reaching agreement or for any other reason, the parties and their representatives shall immediately notify the court by telephone and by letter. The letter, which shall wherever possible be a joint letter sent on behalf of all parties with their signatures applied or appended, shall include –
- (a) a short background summary of the case;
 - (b) the written consent of each party who consents and, where a party does not consent, details of the steps which have been taken to obtain that party's consent and, where known, an explanation of why that consent has not been given;
 - (c) a draft of the order being sought; and
 - (d) enough information to enable the court to decide (i) whether to take the case out of the list and (ii) whether to make the proposed order.

Penalties for failure to comply with the practice direction

- 12.1** Failure to comply with any part of this practice direction may result in the judge removing the case from the list or putting the case further back in the list and may also result in a 'wasted costs' order in accordance with CPR Part 48.7 or some other adverse costs order.

Commencement of the practice direction and application of other practice directions

- 13.1** This practice direction replaces President's Direction (Family Proceedings: Court Bundles) [2000] 1 FLR 536 and shall have effect from 2 October 2006.
- 14.1** Any reference in any other practice direction to President's Direction (Family Proceedings: Court Bundles) [2000] 1 FLR 536 shall be read as if substituted by a reference to this practice direction.
- 15.1** This practice direction should where appropriate be read in conjunction with President's Direction (Human Rights Act 1998) [2000] 2 FLR 429 and with Practice Direction (Care Cases: Judicial Continuity and Judicial Case Management) appended to the Public Law Protocol [2003] 2 FLR 719. In particular, nothing in this practice direction is to be read as removing or altering any obligation to comply with the requirements of the Public Law Protocol. This Practice Direction is issued –
- (i) in relation to family proceedings, by the President of the Family Division, as the nominee of the Lord Chief Justice, with the agreement of the Lord Chancellor; and
 - (ii) to the extent that it applies to proceedings to which section 5 of the Civil Procedure Act 1997 applies, by the Master of the Rolls as the nominee of the Lord Chief Justice, with the agreement of the Lord Chancellor.