

ANNOUNCEMENT BY THE PRESIDENT CONCERNING PRIVATE LAW ORDERS

In November 2014 I asked a group of district judges (Martin Dancey, Chris Darbyshire, Geoff Edwards, James Heyworth and Patrick Perusko, later assisted by Max Ellington) to look again at the CAP orders for private law cases. I was all too conscious that the existing orders were not doing what was required. I made clear that the task was to be approached with a clean sheet and not encumbered by the requirements of PD12B regarding the content of orders.

Since then those judges have been working to draft private law orders that they consider, and I agree, have to meet certain purposes.

First, the orders have been prepared on the basis that the primary and most important audience is the parties themselves, more often than not now unrepresented. So they must be as concise as possible and easy to understand. The orders have been seen by AdviceNow and their suggestions for simpler language have been incorporated.

Secondly, a problem with the CAP orders was the extent to which they required recitals before the operative part of the order was reached. Of course recitals can be very useful in explaining the context of an order and dealing with matters that should not be in the order itself. However there was a strong feeling that the sheer length of orders with long recitals was too daunting, particularly for litigants in person. So the new orders are less prescriptive as to recitals, leaving it to the good sense of judges in any particular case what they choose to include or leave out. With the agreement of the Family Procedure Rules Committee I have now approved amendments to PD12B removing the requirement for certain information to be included on the face of orders.

Thirdly, CPR 81.9 requires that, to be enforceable, penal and warning notices must be prominently displayed on the front of the order. Necessarily therefore, all the warning notices have been collected together on the front page.

Fourthly, it is hoped that as many judges and justices' legal advisers as possible will use the Judicial Template to produce the new orders. I would very much encourage you to do so. I know that in some areas they are used by judges and legal advisers at all levels. However, tick box forms have been drawn up for those who do not feel able to use the Templates. In an attempt to keep these forms to a manageable length they are separated into A Allocation and Gatekeeping, B Case Management Directions and Section 8 and other Orders and C Enforcement. HMCTS staff are being provided with the full text of the orders to which the tick box forms relate so they can draw the appropriate orders using FamilyMan. Whichever method is used to produce orders I am keen that parties should leave court with a copy of the order made at the hearing whenever possible. That will usually be achieved if the Template is used.

Fifthly, it is important that practitioners have access to the same orders as judges so that they can draft consistently. To that end I am making them available to the Bar and Law Society to circulate to family practitioners.

I am immensely grateful to Martin and his team for all their hard work and trust that users of the revised forms will agree with me that they have made very great improvements.

You will know that District Judge Geoff Edwards was responsible for the family and civil templates. His tireless work on these templates over so many years was invaluable. His unexpected death in November last year left a huge gap. He is sorely missed. I am very grateful to retired District Judge Bill Vincent for stepping in and completing Geoff's work. Bill has also kindly offered to help judges and justices' legal advisers to install the current version of the Template if they e mail him at william.a.vincent@gmail.com or william.a.vincent@virginmedia.com.

James Munby PFD
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