



PRESIDENT OF THE
FAMILY DIVISION

President's Guidance: Forms of Orders in Children Cases

1. This Guidance is issued by the President of the Family Division.
2. Previous Guidance in relation to Private Law [*President's Guidance – 22 April 2014 – Use of Prescribed Documents (Private Law)*] and Public Law [Family Procedure Rules 2010, PD12A, para 7.1] makes it plain that the President of the Family Division may, from time to time, issue guidance on prescribed templates and orders.
3. The most recent guidance is *Practice Guidance – 6 June 2018 – Standard Children and Other Orders*, which encouraged use of the recently produced templates for orders in all children cases.
4. In addition, the content of orders (other than final orders) made at the FHDRA in Private Law cases relating to children is prescribed by FPR 2010, PD12B, para 14.13.
5. The advent of new ways of working introduced by the Public Law Outline ['PLO'] and the Child Arrangements Programme ['CAP'] embraced the concept of lengthy narrative court orders in children cases. The aim was to encapsulate all of the essential information about a case in the most recent court order so that anyone taking up a case would only need to turn to the latest order to understand the issues, the parties, the state of the proceedings and other key information.

6. The purpose of the 6 June 2018 Practice Guidance and standard orders was to provide a comprehensive menu from which the appropriate orders and directions could be selected and used in shorter form template orders. They were intended to ensure that orders contained the essential information and directions relating to the particular hearing, but without including unnecessary material. Orders 7.3 – 7.7 (Private Law) and Orders 8.3-8.5 (Public Law) are designed to cater for case management orders and final orders in most situations and it is expected that these forms of order will generally be used as the basis for drafting the relevant order, supplemented if necessary from precedents in Orders 7.2 and 8.2.

7. The aim of these requirements is to assist, rather than add to, the burden of those whose task it is in any case to draw up and approve a court order. The laudable intention (with which I agree) was, as the Guidance states, for draft order templates to be available electronically and for these to be used by all at the click of a mouse. For whatever reason, it has become clear to me that many judges and practitioners are not using electronic templates or programs and are, instead, preparing lengthy narrative orders in each case by a more laborious method with the result that the preparation of orders is now taking more time rather than less. In addition, in Private Law cases, there has been a substantial rise in the number of Litigants in Person, with the result that the task of drawing up the court order falls to the Judge or Magistrates Legal Adviser, without assistance from lawyers for the parties, in those cases.

8. As is well known, the Family Court is currently experiencing a very high number of children cases. In these circumstances, I have reluctantly come to the view that the detriment, in terms of time taken to prepare lengthy narrative orders after every hearing, outweighs the benefit that such orders bring. In short, in the current climate, the court simply does not have time in every case to meet the need for the preparation of full orders after every hearing. Where, as expected, the standard forms of order are used care should be taken to ensure that only the essential information is included.

9. Despite the pressure on the system, I remain persuaded that the **first** order made in any child case (public or private law) should comply with the previous Practice Guidance or PD12B, para 14.13, so that the key information in each case is recorded there. For subsequent orders (other than final orders) the court, while following the previous Practice Guidance, should tailor the order to the particular circumstances of the case, without the need to include lengthy narrative material which does not relate to the requirements of the particular order. The minimum required content in an order following a second or subsequent interim hearing will be:

- i. A recital of who attended and their representation;
- ii. A recital of the issues determined at the hearing;
- iii. A record of any agreement or concession made during the hearing;
- iv. A recital of the issues that remain outstanding; and
- v. The text of any orders that were made.

It is expected that this approach will enable the court to limit the content of orders to what is strictly required for effective case management.

10. Following a final hearing, the court order should, as has always been the case, set out in full the orders that the court has made, together with any appropriate recitals.

11. It is my intention that the use of shorter forms of order as explained in this Guidance should be seen as a temporary measure to support the effective preparation of court orders. The ultimate goal remains, as stated in the June 2018 Guidance, for court orders eventually to be drawn with ease from an electronically supported system once such systems are widely available.

Guidance issued by
Sir Andrew McFarlane
President of the Family Division

17 June 2019