

**AUGUST 2021**

**LODGING OF BUNDLES AND DOCUMENTS FOR HEARINGS AT COURT**

Dear all

During the past 18 months of the pandemic, we have all had to find and adapt to new ways of working and courts have been tolerant of the late filing of bundles and documents, acutely aware of the pressures under which everyone has been operating. As we enter a new phase of emerging from the pandemic restrictions and learning to live with the Covid 19 virus, we must now go back to what **Practice Direction 27A of the FPR** sets out. Increasingly over recent months, bundles and documents that the court needs to see some time in advance for a hearing to be effective have been filed later and later. It is not unusual now for a court bundle to arrive at court the day before the hearing or even on the morning of the hearing and for Case Summaries and Position Statements to be filed a few minutes before the hearing begins or even whilst the hearing is underway!

This is simply unacceptable. It takes no account of the time needed for court staff to forward the documents to the relevant judge or for the judge **to read, consider and reflect** on what the documents say before the hearing begins. For Family Magistrates, the situation is even more challenging as they need time to discuss with each other any issues arising before the hearing starts.

Don’t forget that you may only have one hearing that day, but the court may have five, six or even more. Judges and Magistrates need to fit into their working day, time to read bundles and other documents for cases the following day and beyond. It is simply impossible to do that if they are sent in late. It is unreasonable to expect the court to be reading documents at 11pm at night or at 6am in the morning! You will have gone to a lot of time and trouble to prepare a Case Summary or Position Statement and the court usually finds such documents very helpful. PLEASE do not let that work go to waste by sending it in so late it is not read!

**So, with immediate effect, PD27A must be followed in all cases.** This means for example, that for a hearing on a Monday morning, the bundle must be lodged with the court by 10am on the previous Thursday. The Case Summary and any Position Statements should form part of the bundle but, if they are not ready to be included when the bundle is lodged, must be filed with the court by no later than 11am on the day before the hearing.

For cases before the Family Magistrates, these preliminary documents **MUST** be filed no later than 4pm **2 working days before the hearing,** so that court staff can forward the bundle and all necessary documents to the Magistrates and Legal Advisors first things on the day before the hearing without having to repeat the exercise of searching through email boxes for more documents throughout the day.

Any party filing a document late MUST take responsibility for ensuring that it is sent to the court and all other parties before the hearing AND must check that the court has received it AT THE START OF THE HEARING. If documents are filed later than prescribed by the PD, the parties cannot expect that the court will have received and read them, and the court may decline to read them in any event.

**Here are the key features of FPR 27A for ease of reference and what the courts in Leicestershire will expect from now on** (as supplemented by the PUBLWG Report on Best Practice Guidance Applications and Case Management dated March 2021 for public law cases).

**3.1 Responsibility for the preparation of the bundle**

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.

**4.1 Contents of the bundl****e**

The bundle shall contain copies of only those documents which are relevant to the hearing and which it is necessary for the court to read or which will actually be referred to during the hearing……………………….

**4.3**

At the commencement of the bundle there shall be inserted the following documents **(the preliminary documents**):

(a) an **up to date case 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 four A4 pages;

(b) a **statement of the issue or issues** to be determined (1) at that hearing and (2) at the final hearing;

(c) 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………………….

**4.4**

Each of the preliminary documents shall be **as short and succinct as possible** and 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…………………..

**6.3 Timetable for preparing and lodging the bundle**

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 court.**

6.4 The preliminary documents shall be lodged with the court **no later than 11 am on the day before the hearing.**

**For cases before the Family Magistrates, local practice requires these documents to be lodged with the court no later than 4pm, 2 working days before the hearing.**

**12.1 Penalties for failure to comply with the practice direction**

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 or some other adverse costs order.

**A reminder of some of the recommendations we have adopted from the PUBLWG Report Best Practice Guidance Applications and Case Management March 2021**

6. Use of the advocates' meeting template agendas for urgent and non-urgent hearings is recommended, appendix F4 – F6.

7. An agreed minute of the advocates' meeting shall be filed as part of the case management documentation in advance of the CMH.

8. The template case summary/position statements are adopted as approved standard documents for use in all cases and at all hearings, unless otherwise directed, appendix H1 – H3.

Thank you, in advance, for your co-operation.

Best wishes

HHJ Jane George

DFJ Leicestershire