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## Issue 45

### Guidance by New Practice Direction on Preparation of all Family Court Bundles

1. Here we go on the first day of the New Family Court – there is now a new **Practice Direction 27A** for **Court Bundles in all cases in the Family Court. Ignore at your peril – and with costs!**

2. I have attempted to Re-Format for a better Quick Reference:-

| PARA | SUBJECT   | PROVISION  |
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| 2.1  | <b>Application of Rules</b>                     | All hearings before Family Court and Family HC Judge   |
| 2.2  | Ditto   | All appearances before court, whether with or without notice to other parties and whether for directions or for substantive relief.  |
| 2.3  | Ditto   | Applies whether a bundle is being lodged for first time or is being re-lodged for further hearing  |
| 2.4  | Ditto   | Does not apply to hearing of any urgent application if and to extent that it is impossible to comply with it.  |
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| 3.1  | <b>Preparation of the bundle responsibility</b> | Bundle to be provided by party in position of applicant at hearing (or, if there are cross-applications, by party whose application was first in time) or, if that person is a litigant in person, by first listed respondent who is not a litigant in person. If all litigants in person none of them shall, unless court otherwise directs, be obliged to provide bundle, but any bundle choose to lodge must be prepared and lodged so as to comply with this PD. |

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| 3.2 | Ditto                         | Bundle paginated using Arabic numbering throughout and if possible contents agreed by all parties  |
| 4.1 | <b>Contents of the bundle</b> | <p>Bundle shall contain copies of <u>only</u> those documents relevant to hearing <u>and</u> necessary for court to read or which will actually be referred to during hearing. Copies of following classes of documents <u>must not be included</u> unless specifically directed by court –</p> <ul style="list-style-type: none"> <li>(a) correspondence (including letters of instruction to experts);</li> <li>(b) medical records (including hospital, GP and health visitor records);</li> <li>(c) bank and credit card statements and other financial records;</li> <li>(d) notes of contact visits;</li> <li>(e) foster carer logs;</li> <li>(f) social services files (with the exception of any assessment being relied on by any of the parties);</li> <li>(g) police disclosure.</li> </ul> <p><u>This does not prevent</u> inclusion in bundle of such specific documents which it is necessary for court to read <u>or</u> which will actually be referred to during hearing.</p> |
| 4.2 | Ditto                         | <p>Documents to be arranged in chronological order from the front of bundle, paginated individually and consecutively (starting with page 1 and using Arabic numbering throughout), indexed and divided into separate sections (each section being separately paginated) as follows –</p> <ul style="list-style-type: none"> <li>(a) preliminary documents (see paragraph 4.3) and any other case management documents required by any other practice direction;</li> </ul>  |

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|     |       | <p>(b) applications and orders;</p> <p>(c) statements and affidavits (which must be dated in the top right corner of front page) but without exhibiting or duplicating documents referred to in para 4.1;</p> <p>(d) care plans (where appropriate);</p> <p>(e) experts' reports and other reports (including those of a guardian, children's guardian or litigation friend); and</p> <p>(f) other documents, divided into further sections as may be appropriate.</p> <p>All statements, affidavits, care plans, experts' reports and other reports included in bundle must be copies of originals which been signed and dated.</p>  |
| 4.3 | Ditto | <p>At commencement of bundle insert following documents (preliminary documents) –</p> <p>(a) up to date case summary of background to hearing confined to matters relevant to hearing and management of case and limited, if practicable, to four A4 pages;</p> <p>(b) statement of issue or issues to be determined (1) at that hearing and (2) at final hearing;</p> <p>(c) position statement by each party including a summary of order or directions sought by that party (1) at that hearing and (2) at final hearing;</p> <p>(d) up to date chronology, if final hearing or if summary under (i) is insufficient;</p> <p>(e) skeleton arguments, if appropriate;</p> <p>(f) list of essential reading for hearing; and</p> <p>(g) time estimate (see paragraph 10.1).</p> <p>Copies of all authorities relied on <u>must</u> be in separate composite bundle agreed between advocates.</p> |
| 4.4 | Ditto | <p>Each of preliminary documents to be as short and succinct as possible <u>and</u> state on front page immediately</p>   |

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|     |                             | below heading date when was prepared and date of hearing for which it was prepared. [other parts deal with Children Act proceedings]  |
| 4.5 | Ditto                       | Summary of background, statement of issues, chronology, position statement and skeleton arguments to be cross-referenced to relevant bundle pages   |
| 4.6 | Ditto                       | Summary of 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 form agreed by all parties. Where parties disagree as to content - fact of disagreement and their differing contentions set out at appropriate places in document. |
| 4.7 | Ditto                       | Where the nature of hearing such that complete bundle unnecessary, then bundle (which need not be repaginated) may comprise only documents necessary for hearing, but –<br>(a) summary of background must commence with statement that bundle is limited or incomplete; <u>and</u><br>(b) bundle shall if reasonably practicable be in form agreed by all parties.                      |
| 4.8 | Ditto                       | Where bundle is re-lodged re paragraph 9.2, - before re-lodged –<br>(a) bundle shall be updated as appropriate; and<br>(b) all superseded documents (and in particular all outdated summaries, statements of issues, chronologies, skeleton arguments and similar documents) removed from bundle.   |
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| 5.1 | <b>Format of the bundle</b> | Unless court specifically directed otherwise, being satisfied that such direction is necessary to enable the  |

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|     |   | proceedings to be disposed of justly, bundle to be contained in one A4 size ring binder or lever arch file limited to no more than 350 sheets of A4 paper and 350 sides of text.   |
| 5.2 | Ditto   | All documents in bundle shall (a) be copied on one side of paper only, unless court specifically directed otherwise, and (b) be typed or printed in a font no smaller than 12 point and with 1½ or double spacing.   |
| 5.3 | Ditto   | Ring binder or lever arch file to be clearly marked on front and spine –<br>(a) title and number of case;<br>(b) place where case been listed;<br>(c) hearing date and time;<br>(d) if known, name of judge hearing case; and<br>(e) where in accordance with a direction of court there is more than one ring binder or lever arch file, a distinguishing letter (A, B, C etc). |
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| 6.1 | <b>Timetable for preparing and lodging the bundle</b> | Party preparing bundle shall, whether or not bundle been agreed, provide paginated index to all parties not less than 4 working days before hearing.   |
| 6.2 | Ditto   | Where counsel to be instructed at any hearing, a paginated bundle shall (if not already in counsel's possession) be delivered to counsel by person instructing that counsel not less than 3 working days before hearing.   |
| 6.3 | Ditto   | Bundle (with exception of preliminary documents if and insofar as they are not then available) to be lodged with court not less than 2 working days before hearing, or at such other time specified by court.  |
| 6.4 | Ditto   | Preliminary documents to be lodged with court no later   |

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|            |                           | than 11 am on day before hearing and, if before High Court judge and name of judge is known, shall (with the exception of authorities, which are to be lodged in hard copy and not sent by email) at same time be sent by email to judge's clerk.   |
| <b>7.1</b> | <b>Lodging the bundle</b> | Bundle to be lodged at appropriate office. If bundle lodged in wrong place court may –<br>(a) treat bundle as having not been lodged; and<br>(b) take steps in paragraph 12.  |
| <b>7.2</b> | Ditto                     | Unless court given other direction as to where bundle in any particular case to be lodged (eg. a direction that bundle to be lodged with judge's clerk) bundle shall be lodged –<br>(a) for hearings at RCJ, in office of Clerk of the Rules, 1st Mezzanine (Rm 1M), Queen's Building, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand);<br>(b) for hearings at any other place, at such place as may be designated by the designated family judge responsible for that place and in default of any such designation at court office for place where hearing to take place. |
| <b>7.3</b> | Ditto                     | Any bundle sent to court by post, DX or courier to be clearly addressed to appropriate office and shall show date and place of hearing on outside of any packaging as well as on bundle itself.   |
| <b>7.4</b> | Ditto                     | Unless court given other direction or para 7.5 applies only one copy of bundle shall be lodged with court but party responsible for lodging bundle shall bring to court at each hearing at which oral evidence may be called a copy of bundle for use by witnesses.   |
| <b>7.5</b> | Ditto                     | Where hearing listed before a bench of magistrates four   |

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|            |  | copies of bundle shall be lodged with court.   |
| <b>7.6</b> | Ditto  | <p>Where hearings at RCJ or other place where designated family judge responsible and has directed that this paragraph shall apply, parties shall –</p> <p>(a) if bundle or preliminary documents are delivered personally, ensure that they obtain receipt from clerk accepting it or them; and</p> <p>(b) if bundle or preliminary documents sent by post or DX, ensure that obtain proof of posting or despatch. Receipt (or proof of posting or despatch, as the case may be) shall be brought to court on day of hearing and must be produced to court if requested. If receipt (or proof of posting or despatch) cannot be produced to court judge may: (a) treat bundle as having not been lodged; and (b) take steps referred to in para 12.</p> |
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| <b>8.1</b> | <b>Lodging bundle – additional requirements for Family Division or Family Court cases being heard at RCJ</b> | <p>Bundles or preliminary documents delivered after 11 am on day before hearing may not be accepted by Clerk of Rules and if not shall be delivered</p> <p>(a) in a case where the hearing is before High Court judge, directly to the clerk of judge hearing case;</p> <p>(b) in a case where hearing before other judge, to such place as specified by the Clerk of Rules.</p>   |
| <b>8.2</b> | Ditto  | <p>On identifying judge hearing case, clerk to counsel, or other advocate, representing party in position of applicant no later than 3 pm the day before hearing –</p> <p>(a) if before High Court judge, telephone judge's clerk;</p> <p>(b) in case where hearing is before any other judge email the Clerk of Rules</p> <p><a href="mailto:RCJ.familyhighcourt@hmcts.gsi.gov.uk">RCJ.familyhighcourt@hmcts.gsi.gov.uk</a>;</p> <p>to ascertain if judge received bundle (including</p>  |

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|             |   | preliminary documents) and, if not, organise prompt delivery by applicant's solicitor.   |
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| <b>9.1</b>  | <b>Removing and re-lodging the bundle</b> | Unless either court wishes to retain bundle or specific alternative arrangements agreed with court, party responsible for bundle shall, following completion of hearing, retrieve bundle from court immediately or, if not practicable, collect it from court within 5 working days. Bundles not collected in due time are liable to be destroyed without further notice.  |
| <b>9.2</b>  | Ditto                                     | Bundle to be re-lodged for next and any further hearings in accordance with provisions of this PD and in form complying with para 4.7.   |
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| <b>10.1</b> | <b>Time estimates</b>                     | In every case time estimate (to be inserted at front of bundle) to be prepared and so far as practicable agreed by all parties and shall –<br>(a) specify separately: (i) time estimated to be required for judicial pre-reading; and (ii) time required for hearing all evidence and submissions; and (iii) time estimated required for preparing and delivering judgment;<br>(b) be prepared on basis that before giving evidence all witnesses will have read all relevant filed statements and reports; and<br>(c) take appropriate account of any additional time likely to be incurred by use of interpreters or intermediaries. |
| <b>10.2</b> | Ditto                                     | Once case been listed, any change in time estimates to be notified immediately by telephone (and immediately confirmed in writing) –<br>(a) in the case of hearings in RCJ, to Clerk of Rules; and   |



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|             |  | (b) in the case of hearings elsewhere, to relevant listing officer.   |
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| <b>11.1</b> | <b>Taking cases out of the list</b>  | As soon known hearing will no longer be effective, whether as result of parties reaching agreement or for other reason, parties and their representatives to immediately notify court by telephone <u>and</u> email which shall be confirmed by letter. The letter, ie wherever possible a joint letter sent on behalf of all parties with their signatures applied or appended, shall include –<br>(a) short background summary of case;<br>(b) written consent of each party who consents and, where party does not consent, details of steps which taken to obtain that party's consent and, where known, explanation of why that consent has not given;<br>(c) draft of order being sought; and<br>(d) enough information to enable court to decide (i) whether to take case out of list and (ii) whether to make proposed order. |
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| <b>12.1</b> | <b>Penalties for failure to comply with the practice direction</b>                         | Failure to comply with any part of PD may result in judge removing case from list or putting case further back in list and may also result in a 'wasted costs' order or some other adverse costs order.   |
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| <b>13.1</b> | <b>Commencement of the practice direction and application of other practice directions</b> | Subject to para 13.2 this PD shall have effect from 22 April 2014   |

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| <b>13.2</b> | Ditto | <p>Sub-paras (a)–(c) and (e)–(g) of para 4.1 and paras 5.1 and 5.3(e) shall have effect from 31 July 2014. In meantime paras 5.1 and 5.3(e) shall have effect as if –</p> <p>(a) para 5.1 read “The bundle shall be contained in one or more A4 size ring binders or lever arch files (each lever arch file being limited to no more than 350 pages)”;</p> <p>and</p> <p>(b) in para 5.3(e) the words “in accordance with a direction of the court” were omitted.</p>   |
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| <b>14.1</b> |       | <p>This PD [...references to Children Act proceedings]</p> <p>This Practice Direction is issued –</p> <p>(a) 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</p> <p>(b) 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.</p> |
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**Ashley Murray**

**22.04.14.**