

**PRACTICE DIRECTION 27A – FAMILY PROCEEDINGS: COURT BUNDLES**

Shaded comment boxes seek to draw out the issues on which consultees' views would be particularly welcomed. Consultation questions are in bold font.

In responding to questions, consultees are asked to keep in mind that the purpose of a bundle is to enable the court to deal efficiently with a case.

The Family Procedure Rule Committee (the Committee) appreciates that some of the content of this draft is based on, or differs from, that currently set out in judicial guidance, including:

- the General Guidance on Electronic Court Bundles (29 November 2021),
- the Guidance on E bundles for use in the Family Court and the Family Division (21 December 2021),
- the Statement on the Efficient Conduct of Financial Remedy Hearings Proceeding in the Financial Remedies Court Below High Court Judge Level (11 January 2022) and
- the Notice from the FRC: Electronic Bundles (19 April 2022).

While this will be a matter for the judiciary, the Committee anticipates that such guidance will be amended once the new PD27A is put in place.

*This Practice Direction supplements **FPR Part 27***

**Chapter 1: Introduction**

**1.1** This practice direction must be applied in order to achieve consistency across the country in the Family Court and the Family Division of the High Court in the preparation and filing of court bundles.

**1.2** In this practice direction-

“e-bundle” means a bundle filed with the court by electronic means;

“hearing” includes all appearances before the court, whether with or without notice to other parties, whether at first instance or (subject to paragraph 9.3) on appeal and whether for directions or for interim or final substantive relief.

**Chapter 2: Application of the practice direction**

**2.1** The practice set out in this practice direction applies to:

(a) all hearings before a judge sitting in the Family Division of the High Court wherever the court may be sitting; and

(b) all hearings in the Family Court.

**2.2** The practice in this practice direction applies in conjunction with:

a) specific directions given in any particular case;

b) any judicial guidance issued by, or with the approval of, the President of the Family Division;

c) Practice Direction 30A (which makes provision in relation to bundles in appeal cases).

**2.3** This practice direction applies whether a bundle is being filed for the first time or is being filed for any subsequent hearing.

**2.4** This practice direction does not apply to the hearing of any urgent application if and to the extent that it is impossible to comply with it.

**2.5** This practice direction applies whether the bundle is prepared, filed and served as an e-bundle or as a paper bundle.

**2.6** Chapter 5 of this practice direction applies in financial remedy proceedings. Chapter 6 applies in all proceedings except financial remedy proceedings. All other chapters apply in all proceedings.

### **Chapter 3: preparation of the bundle**

#### ***E-bundles and paper bundles***

**3.1** Except where the court considers there to be exceptional circumstances, a bundle should be in the form of an e-bundle. If the person responsible for filing and serving the bundle (see paragraph 3.3) is not able to produce an e-bundle, then they should file and serve a paper bundle.

**3.2** Even if an e-bundle is filed and served, paper bundle(s) must also be provided to the court by the person who has filed and served the e-bundle-

(a) where the court so directs, for use by the judge, by a witness in the witness box at a hearing and/ or by a litigant in person who cannot access an e-bundle; or

(b) even if the court does not so direct, where there is a realistic possibility of a witness giving evidence in person in the court.

**Who is responsible for preparation of the bundle**

**3.3** Subject to paragraphs 3.4 to 3.6, and to any direction of the court, the default position is that the applicant (or where there are cross-applications, the party whose application was first in time) must prepare, file and serve the bundle.

**3.4** Where an applicant is a litigant in person but a respondent is legally represented, then, subject to any direction of the court, the legally represented respondent must prepare, file and serve the bundle.

**3.5** The court will expect the bundle to be prepared by the person referred to in paragraph 3.3 or 3.4, as applicable. However, exceptionally, where-

(a) all parties are litigants in person;

(b) the court is satisfied that none of the parties is able to prepare, file and serve a bundle; and

(c) a case is progressing on an online system provided by HM Courts and Tribunals Service which has the ability to generate a bundle,

the court may direct that HM Courts and Tribunals Service prepare, and make available to the parties, an e-bundle, together with a paper bundle(s) for use in the witness box and/or by litigants in person who cannot access an e-bundle.

**3.6** In the further exceptional circumstances where-

(a) all parties are litigants in person;

(b) the court is satisfied that none of the parties is able to prepare, file and serve a bundle; and

(c) a case is not progressing on an online system provided by HM Courts and Tribunals Service which has the ability to generate a bundle,

the court must do its best to find a solution.

**3.7** A bundle prepared by HM Courts and Tribunals Service need not comply with the requirements of this practice direction in terms of the content, format and pagination of the bundle. Separate guidance will set out the content and structure of a bundle produced by HM Courts and Tribunals Service.

**3.8** Except where paragraph 3.5, 3.6 or 3.7 applies, if possible, the contents of the bundle should be agreed by all parties.

In this Chapter, the Committee has sought to reflect its understanding of current realities in terms of who should be responsible for preparing court bundles.

The Committee notes that HMCTS advise that parties (including local authorities) can upload PDF bundles to HMCTS online systems irrespective of the external software used to create the bundle. However, it is not possible for the court to use any external software to navigate a bundle.

**Question 1: What are your views about the provision in Chapter 3 of the draft new Practice Direction as regards who should be responsible for preparing the court bundle?**

#### **Chapter 4: Contents of the bundle: all proceedings**

**4.1** The requirements of this Chapter are subject to any case-specific direction of the court. In addition, in the case of an appeal to the family court or the High Court, the bundle must comply with the relevant paragraphs of PD 30A.

**4.2** The bundle must 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. In particular, copies of the following classes of documents must not be included in the bundle:

(a) correspondence (including letters of instruction to experts and correspondence between legal representatives);

(b) copies of emails, text messages, WhatsApp messages or any form of social media communications;

(c) voice notes or other recordings;

(d) bank and credit card statements and other financial records;

(e) notes of contact visits;

(f) foster carer logs;

(g) social services files (with the exception of any assessment being relied on by any of the parties).

This does not prevent the inclusion in the bundle of specific documents which it is necessary for the court to read or which will actually be referred to during the hearing.

**Question 2: Do you agree with the draft provision stating what may not be included in a bundle? Should any other items be included, such as photographs, travel documents, educational reports?**

**4.3** In the event that a party wishes the content of the bundle to be in Welsh, notice of this must be given to the court and all parties ahead of the first hearing in any proceedings. The court should give resulting directions at that hearing.

## **Chapter 5: Structure and content of the bundle: proceedings for a financial remedy**

The Committee is of the view that it is appropriate for this PD to make some different provision for bundles, depending on the type of proceedings in question.

In this draft, Chapter 5 makes specific provision for financial remedy proceedings and Chapter 6 for all other proceedings.

**5.1** The requirements of this Chapter are subject to any case-specific direction of the court.

**5.2** In a bundle for a hearing in proceedings for a financial remedy:

(a) the documents in each section of the bundle must be arranged in chronological order from the front of the section,

(b) the documents must be paginated individually and consecutively (starting with page 1 and using Arabic numbering throughout),

(c) the bundle must include an index at the beginning, which must either-

(i) be paginated, in which case the page numbering of the index must start with page 1; or

(ii) not be paginated, in which case the first page following the index must be numbered appropriately to reflect the number of pages in the index (so, for example, if the index is three pages long, then the first page after the index must be numbered page 4);

(d) the bundle must be divided into the separate sections specified in paragraph 5.3. If blank pages are used to divide sections, each of those pages must be numbered (continuing the consecutive numbering referred to above).

**5.3** A bundle for a hearing in proceedings for a financial remedy must contain the following sections, in the following order:

(a) preliminary documents (see paragraph 5.4) 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, but without exhibiting or duplicating documents referred to in paragraph 4.2;
- (d) any experts' reports and other reports; and
- (e) other relevant documents, divided into sections as may be appropriate.

All statements, affidavits, experts' reports and other reports included in the bundle must be copies of originals which have been signed and dated.

**5.4** The preliminary documents referred to at paragraph 5.3(a) are-

- (a) Form ES1, which must include a statement of issues;
- (b) a composite schedule of assets and income using, unless wholly impractical, Form ES2, on which any unagreed items must be clearly denoted;
- (c) an up to date composite chronology;
- (d) the parties' position statements (see Chapter 8);
- (e) a time estimate (see Chapter 18);
- (f) a hearing template (a timetable for the hearing) which must-
  - (i) allow a reasonable and realistic time for judicial reading and judgment writing;
  - (ii) not normally allow longer than 30 minutes for opening;
  - (iii) detail the time needed for any questioning of witnesses; and
  - (iv) not normally allow for any evidence-in-chief (pursuant to rule 22.6(2) FPR, the parties' witness statements will normally stand as their evidence-in-chief); and
- (g) a list of essential reading for that hearing.

(Note: Form ES1 and Form ES2 are standard summary documents. Templates for these Forms are included in the judicial guidance referred to as the Efficiency Statement.)

**5.5** Each of the preliminary documents must be as short and succinct as possible and must 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.

**5.6** If practicable, the Form ES1, Form ES2 (or equivalent), chronology and position statement should be cross-referenced to the relevant pages of the bundle.

**5.7** The summary of the background and the statement of issues (in Form ES1) and the chronology and reading list must 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 must be set out at the appropriate places in the document.

**5.8** A new bundle must be prepared, served and filed for each subsequent hearing, rather than the first bundle being updated or amended.

The Committee understands that paragraph 5.8 reflects practice in financial remedy proceedings, in contrast to the position in other proceedings (see paragraph 6.10). **Question 3: Should different provision to that in the draft PD be made in relation to bundles filed for subsequent hearings in financial remedy proceedings?**

## **Chapter 6: Structure and content of the bundle: all proceedings other than proceedings for a financial remedy**

This draft PD draws a distinction between (a) financial remedy proceedings (see Chapter 5) and (b) all other proceedings (see this Chapter 6).

The Committee would welcome consultees' views on this distinction, particularly on the specific points highlighted in questions below.

**6.1** The requirements of this Chapter are subject to any case-specific direction of the court.

**6.2** In a bundle for a hearing other than for a financial remedy:

(a) the documents in each section of the bundle must be arranged in chronological order from the front of the section,

(b) the bundle must include an index at the beginning, which should not be paginated;

(c) the bundle must be divided into the separate sections specified in paragraph 6.3. If blank pages are used to divide sections, each of those pages must be numbered (using the numbering system referred to below);

(d) the documents must be paginated individually, using Arabic numbering, using the "Bates numbering system" so that the first section begins at page A1 and continues to page A2 and so on, and the second section begins at page B1 and continues to page B2, and so on, through each section.

The Committee would particularly welcome views on the question of which pagination system should be used for bundles in which types of proceedings.

This draft of the new PD provides for continuous numbering throughout a bundle for financial remedy proceedings, and for “Bates numbering” for all other proceedings, including public and private law proceedings relating to children. But the Committee is open to views on this.

**Question 4: What are your views about the appropriate pagination system to be used for bundles in (a) financial remedy proceedings (b) public law proceedings relating to children (c) private law proceedings relating to children and (d) any other proceedings?**

(We would note that paragraph 6.1 does give the court discretion to depart from the stated default position case by case.)

**6.3** A bundle for a hearing in proceedings other than for a financial remedy must contain the following sections, in the following order:

- (a) preliminary documents (see paragraph 6.4) 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, but without exhibiting or duplicating documents referred to in paragraph 4.2;
- (d) care plans (where applicable);
- (e) any experts’ reports and other reports (including those of a children’s guardian);
- (f) any relevant medical records and any relevant police disclosure;
- (g) in public law proceedings (as defined in rule 12.3 FPR), where the bundle is for a Case Management Hearing, a copy of the birth certificate of the child to whom the proceedings relate, or an equivalent document; and
- (h) other relevant documents, divided into sections as may be appropriate.

All statements, affidavits, experts’ reports and other reports included in the bundle must be copies of originals which have been signed and dated.

**6.4** The preliminary documents referred to at paragraph 6.3(a) are:

- (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 (i) at that hearing and (ii) at the final hearing;

(c) a position statement by each party including a summary of the order or directions sought by that party (i) at that hearing and (ii) at the final hearing (see Chapter 8);

(d) an up to date chronology, if it is a final hearing or if the summary under (a) is insufficient, each entry being limited, if practicable, to one sentence and cross-referenced to the relevant page(s) in the bundle;

(e) a list of essential reading for that hearing;

(f) a hearing template (timetable for the hearing) which must-

(i) allow a reasonable and realistic time for judicial reading and judgment writing;

(ii) not normally allow longer than 30 minutes for opening;

(iii) detail the time needed for any questioning of witnesses; and

(iv) not normally allow for any evidence-in-chief (pursuant to rule 22.6(2) FPR, the parties' witness statements will normally stand as their evidence-in-chief); and

(g) the time estimate (see Chapter 18).

#### **6.5** In public law proceedings-

(a) the case summary and the position statement must be prepared on a standard template produced for that purpose; and

(b) where a bundle is filed for a Case Management Hearing, agreed minutes of the advocates' meeting must be prepared by the advocate for the local authority and be filed as a preliminary document.

The Public Law Working Group report states (paragraphs 7 to 8) that in public law proceedings:

- agreed minutes of the advocates' meeting should be filed as part of the case management documents in advance of a CMH; and

- the template case summary and position statement are approved as standard documents for use in all cases and at all hearings, unless otherwise directed.

We have suggested a paragraph 6.5 in this draft to cover that same ground.

**Question 5: As regards public law proceedings, should this PD make provision for minutes of advocates’ meetings to be included, and for templates to be used for case summaries and position statements?**

**6.6** Each of the preliminary documents must be as short and succinct as possible and must 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.

**6.7** If practicable, the summary of the background, statement of issues, chronology, position statement and any skeleton arguments must be cross-referenced to the relevant pages of the bundle.

**6.8** The summary of the background, statement of issues, chronology and reading list must 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 must be set out at the appropriate places in the document.

**6.10** Where a bundle is updated or amended for a subsequent hearing-

(a) any new documents must be added to the end of the relevant section of the bundle, with the “Bates numbering” pagination following on accordingly;

(b) all superseded documents (and in particular all outdated case summaries, statements of issues, chronologies, skeleton arguments and similar documents) must be removed from the bundle.

## **Chapter 7: Core bundles**

**7.1** The court may direct that a core bundle be provided instead of a complete bundle where the court considers that the nature of a hearing is such that a complete bundle of all documents is unnecessary. The core bundle (which need not be repaginated) may comprise only those documents necessary for the hearing, but-

(a) the summary of the background must commence with a statement that the bundle is limited or incomplete; and

(b) the bundle must, if reasonably practicable, be in a form agreed by all parties.

## **Chapter 8: position statements**

**8.1** In this practice direction “position statement” is the generic term for any form of written submission by a party, or their advocate, including a skeleton argument. Position statements should:

- (a) be concise and not exceed-
  - (i) for the first appointment or first hearing, as applicable, 6 pages (including any attached schedules);
  - (ii) for any other interim hearing, 8 pages (including any attached schedules);
  - (iii) for a FDR appointment (if any), 12 pages (excluding any agreed documents, but including any other attached schedules);
  - (iv) for the final hearing, 15 pages (excluding agreed documents, but including any other attached schedules);
- (b) both define and confine the areas of controversy;
- (c) be set out in numbered paragraphs;
- (d) be cross-referenced to any relevant documents in the bundle;
- (e) be self-contained and not incorporate by reference material from previous position statements;
- (f) not include extensive quotations from documents; and
- (g) where applicable, include information to inform the court of the parties' compliance with the duty to negotiate openly and reasonably.

(In relation to position statements in public law proceedings, note that paragraph 6.5 above states that these should be provided on a standard template.)

**Question 6: Do you consider that, as well as setting out limits on the length of position statements, this PD should set out more detail about what a position statement should include? If so, what provision should be made?**

**8.2** Where it is necessary to refer to an authority, a position statement must first state the proposition of law the authority demonstrates; and then identify the parts of the authority that support the proposition, but without extensive quotation from it.

**8.3** A position statement must be prepared for each hearing. It is not appropriate to use a position statement from one hearing, with an added "update" section, for a subsequent hearing.

## **Chapter 9: Authorities**

**9.1** Copies of all authorities relied on must be contained in a separate composite bundle agreed between the advocates and/or any unrepresented parties. Unless the court has specifically directed otherwise, being satisfied that such direction is necessary to enable the

proceedings to be disposed of justly, the bundle must not contain more than ten authorities. Where a case is reported in a law report which contains a headnote, such a report must be used and transcripts (including transcripts on BAILII or The National Archives) must not be used. Where the bundle is in e-bundle format an appropriate hyperlink to each authority should be provided.

**9.2** Attention is drawn to paragraph 6 of Practice Direction (Citation of Authorities) [2001] 1 WLR 1001 and to Practice Direction (Citation of Authorities) [2012] 1 WLR 780 (both set out in The Family Court Practice) which must be complied with. The reference to “county court cases” in para 6.1 of the first practice direction should be read as including family court cases decided by a judge other than a judge of High Court judge level. Therefore, a judgment on an application attended by one party only, or on an application for permission to appeal, or that only decides that the application is arguable, or by the county court, or in the family court of a judge other than a judge of High Court judge level, may not be cited or included in the bundle of authorities unless either (i) the judgment clearly indicates that it purports to establish a new principle or to extend the present law or (ii) the court for good reason has specifically directed otherwise.

**9.3** If a party seeks to cite an authority, then a copy of, or link to, it must be provided in advance of a hearing to any litigant in person.

## **Chapter 10: Format of the bundle: e-bundles**

**10.1** The following requirements apply to e-bundles:

- (a) **Format:** e-bundles must be provided in PDF format;
- (b) **Page limit:** an e-bundle may only be up to 350 pages (A4 size pages) and this default limit may only be exceeded with the court’s permission;

Page limits: given the prevalence of e-bundles, there is less of a risk now of huge amounts of paper being generated/ going to waste. But equally having a page limit (which the court can vary) arguably focuses minds on only including relevant documents in the bundle.

**Question 7: Do you consider that the default 350 page limit should be altered?**

(c) **Page numbering:**

- (i) all pages in an e-bundle must be numbered by computer-generated numbering, not by hand. Paragraphs 5.2 and 6.2 above make provision about the numbering system to be applied (which depends on the type of proceedings);
- (ii) [subject to any direction of the court,] the computer-generated page numbering must match the PDF “page label” numbering;

As regards paragraph 10.1(c)(ii), the Committee notes there would be a need for all bundle-generating software to meet this requirement.

**Question 8: Should this PD require computer-generated page numbering to match PDF “page label” numbering? If so, should the court have discretion to direct otherwise?**

(iii) where a paper copy of the bundle is produced, for example for use in the witness box: see paragraph 3.5, the pagination must match the e-bundle;

(d) **Indexing:**

(i) each entry in the index must be added to the indexed document;

(ii) all significant documents and all sections in bundles must be bookmarked for ease of navigation, with a short description as the bookmark. The bookmark should contain the page number of the document;

(e) **Optical Character Recognition (OCR):** all pages in an e-bundle that contain typed text must be subject to OCR if they have not been created directly as electronic text documents. This makes it easier to search for text, to highlight parts of a page, and to copy text from the bundle.

(f) **Page Orientation:** any page that has been created in landscape orientation should appear in that orientation so that it can be read from left to right. No page should appear upside down;

(g) **Page view:** the default page view for all pages should be 100%;

(h) **Core Bundles:** if a core bundle is required (see paragraph 7.1), then a PDF core bundle should be produced complying with the same requirements as a paper bundle. A core bundle of key documents may only be produced with the permission of the court.

(i) **Quantity of bundles:** thought should be given to the number of bundles required. It is usually better to have a single hearing e-bundle and (where appropriate) a separate single authorities e-bundle (compiled in accordance with the requirements in this practice direction), rather than multiple bundles;

(j) **Resolution:** the resolution of the bundle should not be greater than 300 dpi, to avoid slow scrolling or rendering. The bundle should be electronically optimised so as to ensure that the file size is not larger than necessary;

(k) **Adding to a bundle:** see paragraphs 5.7 and 6.9 above. Subject to any different direction, the judge should be provided with both (a) the new section and, separately, (b) the revised bundle. This is because the judge may have already marked up the original bundle.

## Chapter 11: format of the bundle: paper bundles

**11.1** Unless the court has specifically directed otherwise, being satisfied that such direction is necessary to enable the proceedings to be disposed of justly, a paper bundle

must 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.

See the question above about the 350 page limit.

**11.2** All documents in a paper bundle (including statements, affidavits, care plans and experts' reports and other reports) must be-

- (a) copied on one side of paper only, unless the court has specifically directed otherwise,
- (b) divided by the author into numbered paragraphs and
- (c) typed or printed in Times New Roman font, no smaller than 12 point and with 1.5 or double spacing.

**11.3** The ring binder or lever arch file in the case of a paper bundle must have clearly marked on the front and the spine:

- (a) the title and number of the case;
- (b) the place 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 in accordance with a direction of the court there is more than one ring binder or lever arch file, a distinguishing letter (A, B, C etc).

## **Chapter 12: e-bundles and paper bundles: length of documents**

**12.1** Unless the court has specifically directed otherwise, being satisfied that such direction is necessary to enable the proceedings to be disposed of justly, and subject to paragraph 12.4 below, any of the following documents included in the bundle must be limited to no more than the number of sheets of A4 paper and sides of text specified below:

- Case summary: 6
- Statement of issues: 2
- Position statement: as provided in Chapter 8, paragraph 8.1
- Chronology: 10
- List of essential reading: 1
- Witness statement or affidavit (exclusive of exhibits): 25
- Expert's or other report: 40 (including executive summary at the beginning of no more than 4 pages)
- Care plan: 10

**12.2** The length and content of skeleton arguments within position statements in financial remedy cases which have been allocated to a High Court Judge shall continue to be governed by paragraph 15 of the Statement on the Efficient Conduct of Financial Remedy Hearings dated 1 February 2016.

**Chapter 13: Timetable for preparing and filing the bundle (paper and e-bundles)**

**13.1** The timescales provided for in this Chapter are subject to any case-specific directions of the court. The following timescales apply each time a bundle is to be filed for a given hearing.

<b>Time period: no later than the stated number of days, or the stated time, before a given hearing</b>	<b>Action to be taken</b>
Four working days	Parties must seek to agree the contents of the bundle.
Three working days	The bundle, with the exception of the preliminary documents if and insofar as they are not available, must be served by the person responsible for preparing the bundle on the other parties.
Two working days	The bundle, with the exception of the preliminary documents if and insofar as they are not available, must be filed with the court by the person responsible for preparing the bundle.
11am on the working day before the hearing	<p>The preliminary documents, if not already served and filed, must be served on all parties and filed with the court by the person responsible for preparing the bundle.</p> <p>Where the hearing is before a judge of the High Court and the name of the judge is known, the preliminary documents must also be sent by email to the judge’s clerk.</p>

**13.2** Once the bundle has been filed with the court ahead of a given hearing, the bundle must not be amended before that hearing has taken place.

This Chapter applies to all types of proceedings.

**Question 9:**

- (a) Do you consider that the timescales in Chapter 13 are appropriate?**
- (b) Should different provision be made for different types of proceedings?**
- (c) Should a hearing template (which is one of the preliminary documents) be filed much further in advance of a hearing so that, for example, any necessary listing adjustments can be sought in good time?**

## **Chapter 14: filing: e-bundles**

**14.1** The following requirements apply to the filing of e-bundles:

- (a) **Filename:** The filename for a bundle must contain the date of the hearing for which the bundle was prepared, the case reference, a short version of the name of the case and an indication of the content of the bundle.
- (b) **Uploading bundles:** where the facility to upload a bundle to an online portal is made available by HM Courts and Tribunals Service, this means of filing the bundle must be used.
- (c) **Email:** If the facility to upload a bundle is not available, the bundle may be sent by email (reference should be made to Practice Direction 5B and accompanying guidance, and to guidance on the naming conventions for subject headings when filing by email at the High Court, as to the requirements applicable).
- (d) **Other means:** where the bundle would otherwise be sent by email (rather than being uploaded to a portal) but is too large to be sent under cover of a single email then it may be sent to the Document Upload Centre by prior arrangement with the court – for instructions see the [Professional Users Guide \(opens in a new tab\)](#).

**14.2** Reference should be made to paragraph 3.2 above in relation to the requirement to also file a paper bundle for use in the witness box and/or by litigant in person. Chapter 15 below applies in relation to such bundles.

## **Chapter 15: filing: paper bundles**

**15.1** The bundle must be filed at the appropriate court office (see paragraph 15.2). If the bundle is filed in the wrong place the court may:



- (a) treat the bundle as having not been filed; and
- (b) take the steps referred to in paragraph 20.1.

**15.2** Unless the court has given some other direction as to where the bundle in any particular case is to be filed (for example a direction that the bundle is to be filed with the judge's clerk) the bundle shall be filed:

(a) for hearings at the RCJ, in the office of the Clerk of the Rules, 1st Mezzanine (Rm 1M), Queen's Building, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand);

(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 the court office for the place where the hearing is to take place.

**15.3** Any bundle sent to the court by post, DX or courier must be clearly addressed to the appropriate office and must show the date and place of the hearing on the outside of any packaging as well as on the bundle itself.

**15.4** Unless the court has given some other direction or paragraph 15.5 applies only one copy of the bundle must be filed with the court but the party who is responsible for filing the bundle must bring to court at each hearing at which oral evidence may be called a copy of the bundle for use by the witnesses.

**15.5** In the case of a hearing listed before a bench of magistrates, if exceptionally a paper bundle (not an e-bundle) is to be used, four copies of the paper bundle must be filed with the court.

**15.6** In the case of hearings at the Royal Courts of Justice or at any other place where the designated family judge responsible for that place has directed that this paragraph shall apply, parties must:

(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 or electronically, ensure that they obtain proof of posting or despatch.

The receipt (or proof of posting or despatch, as the case may be) must 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: (a) treat the bundle as having not been filed; and (b) take the steps referred to in paragraph 20.1.

## **Chapter 16: filing the bundle – additional requirements for Family Division or Family Court cases being heard at the RCJ**

**16.1** Bundles or preliminary documents delivered after 11am on the day before the hearing may not be accepted by the Clerk of the Rules and, if not accepted, must be delivered:

(a) in a case where the hearing is before a judge of the High Court, directly to the clerk of the judge hearing the case;

(b) in a case where the hearing is before any other judge, to such place as may be specified by the Clerk of the Rules.

**16.2** 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 3 pm the day before the hearing:

(a) in a case where the hearing is before a judge of the High Court, email the clerk to the judge hearing the case;

(b) in a case where the hearing is before any other judge email the Clerk of the Rules at *[email address to be inserted]*;

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.

**16.3** Paragraph 14.1 above refers to guidance on email subject naming conventions where bundles are filed with the High Court by email.

## **Chapter 17: Removing paper bundles**

**17.1** Unless either the court wishes to retain a paper bundle or specific alternative arrangements have been agreed with the court, the party responsible for the bundle must, following completion of the hearing, retrieve the bundle from the court immediately or, if that is not practicable, collect it from the court within 5 working days. Bundles which are not collected in due time are liable to be destroyed without further notice.

## **Chapter 18: Time estimates**

**18.1** In every case a time estimate (which must be inserted at the front of the bundle: see paragraphs 5.4 and 6.4) must be prepared, which must so far as practicable be agreed by all parties, and must:

(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;

(b) be prepared on the basis that before they give evidence all witnesses will have read all relevant filed statements and reports; and

(c) take appropriate account of any additional time likely to be incurred by the use of interpreters or intermediaries.

**18.2** Once a case has been listed, any change in time estimates shall be notified immediately by email or by telephone:

- (a) in the case of hearings in the RCJ, to the Clerk of the Rules; and
- (b) in the case of hearings elsewhere, to the relevant listing officer.

### **Chapter 19: Taking cases out of the list**

**19.1** 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 must immediately apply to the court by telephone and email, which must be confirmed by a hard copy application sent to the court as soon as practicable. The application, which must wherever possible be a consent application, sent on behalf of all parties with their signatures applied or appended, must 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.

### **Chapter 20: Penalties for failure to comply with the practice direction**

**20.1** 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 or some other adverse costs order.

### **Chapter 21: Commencement of the practice direction and application of other practice directions**

**21.1** This practice direction shall have effect from [DATE].

**21.2** This practice direction should where appropriate be read in conjunction with the Public Law Outline (PD12A) and the Child Arrangements Programme (PD12B). 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 Outline and the Child Arrangements Programme.

**Question 10: Do you have any other comments on this draft Practice Direction?**

[END]