

## Commission on Justice in Wales – Family Law and Justice

### Litigants in person

- Due to the withdrawal of legal aid in private law cases, it means that parties are often appearing as LiP. This can place additional pressures on counsel who will be expected to negotiate with LiP about contact arrangements etc. This can often be difficult as the LiP often do not understand the process and will ask counsel to explain things or at times, advise them. This often leads to difficult conversations and can place counsel in a difficult position as they must not stray into giving advice. In addition, counsel's own clients can sometimes feel uncomfortable that we liaise with the LiP as we are instructed by them. This can particularly be the case when DV is alleged.
- LiP can sometimes be reluctant to have discussions with counsel in a conference room as they understand we represent the other side. This can make discussions difficult as the information is sensitive.
- On occasions for example, the hearing is listed for 1 hour but counsel can often be at Court much longer than that when dealing with a LiP as they do not have the opportunity to obtain legal advice about contact proposals etc.
- If Counsel represents the respondent, counsel is often expected to draft the case summary and draft orders. This can place additional pressures on counsel.
- Where a final hearing/fact-finding hearing is listed, this often leads to listing the case for lengthier hearings so that the LiP has an opportunity to put their case. This has cost implications for both a private paying and legal aid clients.
- Sometimes Courts list additional hearings so that that they can consider the LiP understanding to ensure that he/she will not be unfairly disadvantaged at a final hearing

### Hearings

- I have experienced a number of cases where judges have encouraged parties to conclude matters before the final hearing. DRA orders often recite that the hearing may be used as a final hearing but if the case concludes, counsel would not

receive a final hearing fee. This differs to public law cases where the matter is resolved at IRH.

## Courts

- Cwmbran – the Court rooms do not appear to be able to comfortably accommodate public law cases. The rooms are small, tables short and there are metal stands for screens to be placed on the desk. When dealing with public law cases, parties often have many files and it is difficult to place any files on the tables. On occasions, parties sit between two rows.
- Pontypridd – there is no advocates room. This would be helpful for parties.
- Newport – the Court has been shut a number of times recently which means hearings can take place at other Courts. This can have a knock-on effect if counsel was initially booked for a morning and afternoon case in Newport to find the two cases are now at two different venues.
- Where DV is alleged (private law), not all Court rooms have video facility for a party to give evidence. This can mean hearings are not conducted as quickly as one would hope as judges may need to make arrangements to move Court rooms which may already be in use on a date the parties are seeking. This can delay contact being set up, for example.

## Preparation of cases

- It is notable that there has been an increase in the amount of public law cases before the courts. Through no fault of their own, instructing solicitors are finding themselves having a considerable amount of work to be prepared and a high volume of clients to deal with, each case being specific in its circumstances. Due to the volume of work, my instructing solicitors may find themselves having less time to prepare bundles and briefs for counsel. It is not uncommon that I am provided with bundles (which can contain significant amount of disclosure) the afternoon before a contested final hearing, leaving an inappropriate amount of time to be able to prepare the case. Further, it seems that due to issues of funding and again, a high volume of work, conferences with clients prior to hearings are few and far between and this would assist significantly in being able to prepare matters thoroughly. I prepare any case as

required, in the time period allowed, however, more often than not, a good work/life balance is a hope rather than a certainty.

Cathedral Chambers

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