

CONSULTATION REGARDING THE PROPOSED AMENDMENT TO BUNDLES: PD-PD 27A

This is the response of Nagalro, representing both Independent Social Workers, who prepare expert reports and Children's Guardians, who rely on well written, succinct, expert reports in their role as representative of the child and advisor to the family courts on the question of children's best interests.

In preparing this response we have had the benefit of seeing the draft response of 'The Consortium of Expert Witnesses' and generally concur with some of their concerns including the following points.

Experts have serious difficulty limiting their reports to 40 pages whilst at the same time fulfilling their duties to the court:

- If Letters of Instruction (LOIs) are over long, rambling or repetitive.
- Where bundles (limited to 350 pages) lack first hand primary evidence, which is essential and upon which the analyses of the Social Workers and Guardian must rely and which the expert can easily reference without repetition.
- Where the bundle lacks high quality, detailed historical information, whether medical, social or psychological drawn from social work, police and education sources and not limited to the last 2 years if other information is pertinent.
- Where the report is required to assess multiple adults and children including the relationships and dynamics between them.
- If the expert cannot reference necessary and appropriate information from the bundle, and are prevented from including their own enquiries due to limitations on length, then such reports will be inadequate and most likely lead to longer hearings and higher costs, thus militating against the cost saving purpose and potential benefit of a 40 page limit.

Nagalro would also say from the experience of its members as follows:

- a) Report formats set down in the Rules such as for Special Guardianship and the Parenting Assessment Manual (PAMS) assessments with pre-determined formats are, by their nature, hard to keep within 40 pages if they are to say anything of any benefit to the Family Court in its decision making. There is a risk already evident with Guardian and Social Work pro-forma style reports of the document being so restrictive as to factual content and, in effect, adding little of value, when the analysis is not pinned to evidence.
- b) Some authors of PAMS and other reports are, however, of the opinion that if extraneous information, such as CVs, theoretical models, observations and documents related to the assessment process, could be confined to appendices (confined to the advocates' bundles) then it may be possible to keep the page count under 40 pages. Any expert statements of 'compliance' etc. should not be included in the page count.
- c) There is also a practical concern that limiting pages rather than word count may result in a decreasingly small font being used and that for narrative, rather than pro-forma reports, a maximum word count of 20,000 words may be more appropriate, as

this would equate to 40 pages containing an average of 500 words per page if printed in a 12pt font.

- d) It has also been suggested that perhaps some of the descriptive, extraneous and historical material need not be put in the Judge's bundle but only the legal representatives, who need only refer it to the court if an issue arises.
- e) Greater use could be made of the role of the Guardian in consultation with the child's legal representative in advising the Court with regard to the completeness and quality of the written evidence, advising not only where there are lacunae, but also where some information could be reduced and summarised by agreement between the parties.
- f) Members regret that currently it is not now usual practice for Guardians to read Local Authority (LA) files and to draw attention to other information of value, which may not be included by the LA in its initial evidence.

Recommendations:-

Before the instruction of a court appointed expert:

1. The court always ensures that the LOI is not repetitive, and is as concise and focused as possible.
2. The Guardian reviews the LA files and advises whether all relevant information has been included to address the concern of the ' Consortium of Experts' regarding the inadequacies they have referred to in some 350 page bundles.
3. The Guardian also advises whether a summary can be prepared of some material, such as meetings, Child Protection Conference notes, education reports and other records in order to retain important information and reduce length.
4. Children's Guardians have the potential and competence, as yet not fully tapped, to greatly assist the court in ensuring that the quality of the evidence, in a limited bundle, is the best and most comprehensible possible.

After the instruction of an expert:

5. All extraneous material should be put into appendices such that the actual report mainly consists of analysis, which is related to, and referenced by, evidence available elsewhere in the report or court bundle. Such appendices should not be repetitive e.g. not repeating the same theoretical model in each of the reports (as is often seen in psychological reports) where a number of children are involved. It must, however, be clearly understood that if the report is to be disclosed for further treatment of an individual that all the appendices will be disclosed with each report.
6. To avoid reduced font sizes being used to meet page limits, narrative experts' reports should be limited to 20,000 words rather than a page count.
7. Provision needs to be made, either in explicit terms in the Practice Direction or in guidance on the use of the court's discretion to allow reports with formats such as Special Guardianship and PAMS to be sufficiently long as is required by the format and particularly where there are multiple adults and children even if this takes the page count over 40 pages.

Ann Haigh, Chair Nagalro and Margaret Payne Policy Officer Nagalro on 1 March 2016

tel: 01372 818504

www.nagalro.com

nagalro@globalnet.co.uk