



JUDICIARY OF
ENGLAND AND WALES

His Honour Judge Wildblood QC

Designated Family Judge for Avon, North Somerset and Gloucestershire

Newsletter – February 2016

1. Due to the unprecedented amount of public law work that has come into this court since the decision on 2nd November 2015 of the Court of Appeal in *Re N (Children) (Adoption: Jurisdiction)* [2015] EWCA Civ 1112, I have to put in place some new measures.
2. The size of the problem is this. We are now receiving almost twice the number of public law cases each month when compared to the pre *Re N* period. We are receiving a very high number of emergency applications in new public law applications – in January emergency hearings had to be listed in 68% of all new applications (which is way above the norm prior to *Re N*). We have a large volume of Court of Protection work coming into this court. Our staff numbers have reduced by 1/3rd. The lists of judges are full until the end of June and judges are being expected to deal with an unprecedented amount of work. Out of the 44 DFJ areas in the country we are now the 40th (i.e. fourth from the bottom) in the table of timeliness for public law cases; our public law cases are taking an average of 32.2 weeks to resolve and things are slipping beyond that. *Re N* raises national difficulties which may (or may not) be resolved when the case goes to the Supreme court.
3. With the assistance of judges and the court staff I have arranged that two judges who sit in Gloucester should start hearing public law cases there. Therefore, in relation to any case from Gloucestershire, please make enquiries as to whether it can be listed in Gloucester rather than in Bristol. It is a waste of time and resources for cases to be heard here in Bristol if they could be heard there. The lists in Bristol cannot accommodate all of the work from each of the five Local Authorities that we cover.

4. The other steps that I am taking are these:

- i) Final hearings in public law cases will now only be listed at IRH, unless the court considers in an individual case that an earlier listing of the final hearing must be arranged. An example would be where there are a large number of experts.
- ii) IRHs must be listed **by** week 20 unless there is good reason for this not to occur.
- iii) It is to be recognised that it is not necessary for all of the Respondent's evidence to be filed in final form by the time of the IRH. It is sufficient if the Local Authority has filed its final evidence and the other parties, including the guardian, have set out their final positions in short position statements. This avoids delay between the filing of the Local Authority's final evidence and the IRH.
- iv) The court will have to be much tougher in its approach to IRHs. If the case can settle then it should. It will be for the court to decide whether evidence should be heard at the IRH to dispose of any issues then. IRHs may well have to be listed for longer than one hour therefore.
- v) The three circuit judges in Bristol will hear settlement conferences in any suitable cases that are referred to them. Such conferences will take place between IRHs and final hearings but only in those cases where the court hearing the IRH considers such a conference to be worthwhile. The conferences will be confidential and must not be listed before the judge conducting the final hearing. They must be supported by concise paperwork (case summaries, position statements from all parties and references only to essential documentation from the court bundle with page references). Such conferences are to be 'cards face up on the table' attempts at resolving the case and everyone must enter them on that basis. They should be described as adjourned IRHs for the purposes of legal aid – that is what they are.
- vi) I seek to arrange for all FHDRAs in private law cases in Bristol to be heard before magistrates and for it to be understood that, subject to allocation criteria and the discretion of the court, the final private law hearings will be before magistrates in most cases. This - i.e. point vi - requires further discussion and so I am stating this now as a

means of consultation (unlike i) to v) which come into force now). Plainly there are cases where this private law arrangement is not suitable and the magistrates will be able to refer the cases to a judge (e.g. international issues or serious fact finding such as alleged rape). I need to discuss, in particular, whether a similar measure should be put in place in Gloucester and will hold the necessary discussions.

5. All but vi) above must take effect immediately please. These points have been discussed amongst judges, magistrates, the administration and the members of the Family Justice Board and have met with general support (with some dissenting voices, of course). I will send out further information about the position concerning private law once I have held further discussion.
6. Finally, thank you very much for all of the effort that is going into the family system at present. These are exceptionally difficult times for everyone and the only way to deal with them is to work collaboratively.

Stephen Wildblood

4th March 2016