**His Honour Judge Robin Bedford**

Designated Family Judge for Sussex

Circuit Judge

13 September 2023

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POINTS FOR IMPROVEMENT

I am pleased to report that we appear to be making significant progress in dealing with the backlog of public law cases and in timeliness of proceedings.

However, several issues have caused me considerable concern over recent weeks in terms of unacceptable practise which must cease.

**Advocates’ meetings** are being held too close to the relevant hearing. They must be arranged as ordered and all orders must provide that they take place at least two working days before the relevant hearing.

**Position statements:** many practitioners ensure that they arrange their work so that the position statement is with the judge by the start of the judge’s working day, however others frequently do not. Failure to file before the start of the working day provides the judge with no opportunity to consider the same and runs the risk of the advocate’s work in preparing the document, being wasted.

All position statements must now be filed at least half a working day prior to the hearing save where the hearing has been listed at short notice and even then, efforts must be made to do so.

We have noted a tendency for the lateness of position statements to be justified on the basis that the position statement was awaiting the approval of the client. This is not acceptable. A position statement is drafted by the advocate on basis of instructions already received. Any error, which should be rare, can be addressed orally at the hearing or by email in advance of the hearing. If a lay party has failed to provide instructions, then the position statement can spell that out alongside an assurance that the client’s position will be set out orally or if known sooner, in a document to follow.

**Witness templates**: no issue resolution hearing should commence without a completed witness template having been submitted by the advocates following the advocates meeting. Each advocate, whether they are to be trial counsel or not must be adequately instructed, or if they are a solicitor, they must have sufficient knowledge of the case itself, to identify the issues which call for cross examination and to give a professional and binding view as to a proportionate time for carrying out that cross examination.

**Professional clients and matters of law;** I have recent experience of counsel for a local authority seeking to advance arguments which were bad in law on the basis that they had been instructed to advance those arguments. Social workers and children's guardians should be prepared to accept advice as to the law and should not take up valuable court resources by seeking to argue points which are wrong in law. I invite those in Cafcass and local authority management to take note.

Thank you for taking the time to read this short communication.

**HHJ Robin Bedford**

**Designated Family Judge for Sussex**