

PRACTICE DIRECTION – SL10.4

Guidance Note on Case Management and Time Tabling in Children and Ancillary Relief Proceedings

Introduction

1. This Guidance Note is intended to achieve better case management in children proceedings (“Children Proceedings”) and ancillary relief proceedings (“AR Proceedings”) which fall within the existing PD 15.11 and PD 15.13 and is intended to supplement those practice directions.
2. There will be a re-distribution of work between the District Judges sitting in the Family Court to enhance effective case management and timetabling. Some Judges will be allocated with the tasks of conducting CDR, FDR and all trials (“Allocated Judge” or “AJ”) whilst some judges will deal with the initial case management aspects of the proceedings and the processing of interlocutory applications (“Case Management Judge” or “CMJ”). In more complicated cases, interlocutory applications will also be handled by AJ.
3. In addressing the issue of delay in Children Proceedings and AR Proceedings, target time tables are to be introduced so that the parties shall have a target completion date for their proceedings. The target time tables are also applicable to litigants in person (“LIP”).
4. In setting the target time tables, it is important that they are achievable by the parties with reasonable diligence. If there are exceptional circumstances requiring the time tables to be adjusted, a party may apply to the court for variation of the milestone dates in the timetable or further directions.

Case Management Hearing (“CMH”) before the AJ

5. All First Appointments (“FA”) and Children Appointments (“CA”) will be listed before the CMJ and the case will only be transferred to the AJ when the case is ready for a CMH. Unless otherwise directed by the CMJ, the FA and CA will be processed on the papers with directions issued by the CMJ without any oral hearing.

6. Under PD15.11, there are filing requirements of documents under paragraphs 2, 4, and 4A and under PD 15.13, there are filing requirements of documents under paragraph 9.

7. In the case of AR Proceedings to which PD 15.11 applies, the draft questionnaire to be lodged under paragraph 4b of PD 15.11 shall not initially exceed 5 pages (paper size A4, single side printing, double line spacing, font size 14) (including all annexures). Only in very complex cases that a questionnaire of up to 10 pages may be allowed but only with good justifications. Any further questionnaire shall only be filed with leave of the AJ at the CMH.

8. If either party has failed to comply with the requirements set out in paragraph 6 above, the CMJ will issue case management directions on paper, including unless orders, if appropriate. The date originally fixed for that FA or CA will be adjourned to another date for the defaulting party's compliance. The CMJ's paper directions may include, in the case of CA, the preparation of social investigation reports and/or other relevant reports and adjourn the FA or CA to another date.

9. If the defaulting party shall continue in his default of compliance, the CMJ may hold an oral hearing and/or adjourn the hearing to the AJ for a CMH.

10. Upon compliance with the directions given by the CMJ or upon the satisfaction of the CMJ that the case is ready to be dealt with by the AJ, he will transfer the case to the AJ for a CMH. At the same time, the CMJ may also give further case management directions, including the answering of questionnaires, the filing of further evidence, including expert evidence, and other appropriate directions.

Target Time Tabling

11. In the case of matrimonial proceedings involving Children Proceedings and/or AR Proceedings, since there is a need for a party (e.g. the Petitioner) to effect proper service and to deal with the main suit, the target time tabling procedure will be initiated by the AJ at the CMH when it is clear that the main suit will not be contested and the granting of Decree Nisi (DN) is just a matter of course.

12. In the case of Children Proceedings not within the context of matrimonial proceedings, the target time tabling procedure will only be initiated by the AJ at the CMH.

13. At the CMH, there needs to be an appraisal by the AJ on the complexity of the Children or AR Proceedings and duration of the trial before setting the target time table. The proceedings will be divided into the following categories:

- (1) Short cases (estimated time of the trial on Children and the trial on AR to be not more than 2 days respectively) (“Short Cases”);
- (2) Medium cases (estimated time of the trial on Children and the trial on AR to be not more than 4 days respectively) (“Medium Cases”);
- (3) Long cases (estimated time of the trial on Children and the trial on AR to be 5 days or more respectively) (“Long Cases”).

Cases involving an agreement

14. Parties are encouraged to attend mediation, and/or other dispute resolution schemes prior to the issue of proceedings to achieve an agreement on all issues. In the event that there is agreement before commencement of proceedings or at a time before CMH, a copy of the agreement should be filed together with the petition/joint application/originating summons and/or other originating process. When a CMJ is satisfied that the agreement has been filed, the CMJ may make the necessary orders without referring the matter to AJ. If agreement is reached after CMH, the matter will be handled by the AJ.

15. In the event of matrimonial proceedings upon the lodging of a consent summons with an agreement being filed as stated in paragraph 14 above, and the agreed terms being approved by the CMJ or AJ, the target time for conclusion will be within 3 months from the registrar entering the cause in the special procedure list with an order being granted in the approved terms, and within a further 3 months for the DN (if applicable) to be made absolute (subject to there being no outstanding requisitions from the Family Court Registry in the proceedings and the said application (if applicable) being made promptly after DN).

16. In the event of other proceedings, upon lodging a consent summons with an agreement being filed as stated in paragraph 14 above, and the agreed terms being approved by the CMJ or AJ, the target time for conclusion of the proceedings will be within 1 month.

Cases involving both Children and AR Proceedings

17. In a case involving both Children and AR Proceedings, the target time table for conclusion of the 3 level of cases are:

- (1) Short Cases within 23 months from the CMH.
- (2) Medium Cases within 27 months from the CMH.
- (3) Long Cases within 32 months from the CMH.

18. The details of the target time table are as follows:

	Short Cases	Medium Cases	Long Cases
0-6 months	CDR	CDR	CDR
6-9	Trial on children dispute (not more than 2 days)	Trial on children dispute (not more than 4 days)	Trial on children dispute (5 days or more)
9-13	PTR on AR	PTR on AR	PTR on AR
13-16	FDR (by another Judge)	FD (by another Judge)	FD (by another Judge)
16-19	Trial on Preliminary Issues/AR (not more than 2 days)	2 nd PTR	2 nd PTR
19-23	Trial on AR (in case of a separate Preliminary Issues trial) (not more than 2 days)	Trial on Preliminary Issues/AR (not more than 4 days)	3 rd PTR
23-27	---	Trial on AR (in case of a separate Preliminary Issues trial) (not more than 4 days)	Trial on Preliminary Issues/AR (5 days or more)
27-32	---	---	Trial on AR (in case of a separate Preliminary Issues trial) (5 days or more)

[PTR= Pre-trial Review]

Cases involving AR Proceedings only

19. In a case involving AR proceedings only, the target time table for conclusion of the 3 level of cases are:

- (1) Short Cases within 13 months from the CMH.
- (2) Medium Cases within 17 months from CMH.
- (3) Long Cases within 22 months from the CMH.

20. The details of the target time table are as follows:

	Short Cases	Medium Cases	Long Cases
0-6 months	FDR (by another Judge)	FDR (by another Judge)	FDR (by another Judge)
6-9	Trial on Preliminary Issues/AR (not more than 2 days)	PTR	PTR
9-13	Trial on AR (in case of a separate Preliminary Issues trial) (not more than 2 days)	Trial on Preliminary Issues/AR (not more than 4 days)	2 nd PTR
13-17	---	Trial on AR (in case of a separate Preliminary Issues trial) (not more than 4 days)	Trial on Preliminary Issues/AR (5 days or more)
17-22	---	---	Trial on AR (in case of a separate Preliminary Issues trial) (5 days or more)

[PTR= Pre-trial Review]

21. Under the above target time tables, the trial dates will be fixed at the CMH and each case will have hearing at a roughly 3-6 months' interval, depending on the nature of hearings. The CMH/PTR will be listed for 30-60 minutes, depending on circumstances. The CDR/FDR will be listed for a half/whole day hearing. The CDR/FDR/Trial dates are milestone dates.

22. For the AR Proceedings, the AJ will fix the target time table at the CMH including fixing a FDR before another Judge (FDR Judge). In case of a failed FDR, the case will be transferred back to the AJ for trial.

23. At or after fixing the target time table, the AJ will exercise strict and robust case management to ensure that the target time table is complied with. With more time being allotted to each hearing, better and more comprehensive case management directions could be given and proper investigation into non-compliance could be carried out, if needed. Any non-compliance without reasonable explanation will be visited with adverse costs orders. Interlocutory applications (e.g. for interim custody/access, interim maintenance/MPS, answering of questionnaires) will be dealt with by either the CMJ or AJ, and would be by way of paper disposal as far as practicable.

Third Parties having or claiming an interest in the matrimonial properties

24. It is recognized that there is an increasing number of third parties claiming an interest in the family pot, but that should not be an obstacle in having a FDR involving the third party, who are usually close family members or related companies. In the unfortunate event of a failed FDR, the trial on claims by third party(ies) could still be heard at the same time of the AR claims. Only if that is impracticable, the Allocated Judge may direct that the AR trial to be conducted after the conclusion of the Preliminary Issues trial.

Commencement & Applicability

25. The new time tabling scheme is to take effect and applies to all *new* cases filed on or after 1 September 2021. With the parties' consent, the provisions in this Guidance Note could also be applied to existing cases, if appropriate.

Date: 13 August 2021

(Johnson Lam)
Permanent Judge of the Court of Final Appeal
Chairman of the Family Proceedings
Court Users' Committee