

Practice Guidance: Committal for Contempt of Court – Open Court

Preamble

1. This Practice Guidance answers various questions which have arisen on the application and interpretation of the Practice Direction: Committal for Contempt-Open Court, dated 26 March 2015 (the Committal PD)

Press Notification - Hearings

2. The Committal PD only requires the press to be notified before a committal hearing in two circumstances:
 - (1) where it is not possible to list the committal hearing in the public court list in the usual way the day before the hearing is to take place, see paragraph 6 of the Committal PD; and
 - (2) where, in advance of a hearing, the court, either on application or of its own initiative, is considering holding the committal hearing in private, see paragraph 8 of the Committal PD.
3. Press notification of a committal hearing is not therefore required in respect of all committal hearings.

Judgments

4. Paragraph 13 of the Committal PD only applies where the court finds that a person has committed a contempt of court and makes either an order for committal or a suspended committal order, see specifically paragraph 13(1)(ii). It does not apply where the court makes any other order having found a person has committed a contempt of court.
5. Where paragraph 13 applies, the following format for providing the required information should be used:

‘Pursuant to paragraph 13 of Practice Direction: Committal for Contempt of Court – Open Court

In relation to [*insert case number*] on [*insert date*], at [*insert court*] I, [*insert title and name of judge*] sentence [*insert name of individual subject to the committal or suspended committal order*], to [*an immediate/suspended custodial sentence*] of [*insert term of sentence*] for contempt of court. The basis of that sentence was that [*short, general reasons*].’

6. For the purposes of paragraph 14 of the Committal PD, where it is not the usual practice of a court to give reasoned judgments because, for instance, it is not a court of record, the judgment, should set out the information required by paragraph 13(1)(i) – (iii) of the PD with short, written, reasons why the court arrived at its decision. Annex 1 to this Guidance contains a judgment pro forma for this purpose. This may be of particular assistance in the County Court and Magistrates’ courts.

Application to proceedings under CPR r.71 and CCR O.27 and FPR rr. 33.19, 33.19A and 33.23

7. The Committal PD applies to committal hearings, see paragraph 5(1) of the Committal PD.
8. The Committal PD does not apply to orders made on a written reference to a High Court judge or Circuit judge under the procedure set out in CPR r.71.8(1) and r.71.8(2) and CPR PD71, paragraph 6 and 7. It does not as CPR r.71 provides a process whereby any committal order made on such a written reference must be suspended on terms, amongst other things, that the person subject to the order attend court and is therefore capable of challenge before enforcement: see CPR r. 71.8(3) and r.71.8(4) and *Broomleigh Housing Association Ltd v Okonkwo* [2010] EWCA 1113 at [22]. The Committal PD does, as a consequence, apply to any hearing under CPR r.71.8(4)(b)).
9. The Committal PD applies to the attachment of earnings procedure under CCR O.27 r.7 and O.27 r.7A as it does to CPR r.71. It therefore only applies to the adjourned hearing referred to in CCR O.27 r.7B and to any further hearing to deal with a suspended committal order made under that provision.
10. Paragraphs 7 – 9 apply to FPR rr.33.19, 33.19A and 33.23 in so far as they apply the procedure in CCR O.27 and CPR r.71 to proceedings to which the Family Procedure Rules 2010 apply.

Applications to proceedings under the Policing and Crime Act 2009 and the Anti-Social Behaviour, Crime and Policing Act 2014

11. The Policing and Crime Act 2009 makes provision for civil injunctions to be made in respect of gang-related violence. The Anti-Social Behaviour, Crime and Policing Act 2014 makes provision for civil injunctions to be made in respect of certain types of anti-social behaviour.
12. The Committal PD applies to committal hearings in respect of adults who are alleged to have breached injunctions made under the 2009 Act and the 2014 Act. It does not however apply to hearings arising from alleged breaches of injunctions made under either the 2009 Act or the 2014 Act by individuals under the age of 18 as they are not applications for committal to prison for contempt, but are rather applications for a supervision or detention order under the statutory procedure set out in schedule 5A of the 2009 Act and schedule 2 of the 2014 Act.
13. In certain circumstances section 43 of the 2009 Act and section 9 of 2014 Act may require breach of an injunction to be dealt with by a judge outside the court's normal opening hours, i.e., in the evening, at a weekend or on a bank holiday.
14. Where an 'out of hours' court is open and available, such matters should be listed and heard at that court 'out of hours'. Paragraph 6(3) of the Committal PD applies to such listings.
15. Where no 'out of hours' court is open and available, the judge should consider whether the matter can properly be dealt with, at a location other than an open court, through exercise of the power to remand on bail or in custody, provided under section 43(5) and schedule 5 of the 2009 or section 9(5) and schedule 1 of

the 2014 Act. Use of the remand power does not engage the notification requirements of paragraphs 5, 6, 13 or 15 of the Committal PD. Those requirements will be met when the matter comes back before the court as specified below.

16. Where breach of an injunction is dealt with by way of remand on bail, the committal hearing should be listed, in accordance with the provisions of the Committal PD, at the first convenient date when the court is sitting.
17. Where breach of an injunction is dealt with by way of remand in custody, the committal hearing should be listed for hearing, within any applicable statutory time limit and in accordance with the provisions of the Committal PD, in the nearest appropriate court to the place of custody on the first convenient date when the court is sitting.

Review

18. The operation of the Committal PD will be subject to review in October 2015.

Lord Thomas LCJ
24 June 2015

iii)	iii)
------	------

6. Accordingly it was ordered that⁽²⁾

be committed for contempt to Her Majesty’s Prison at⁽³⁾ for a (total) period of or until lawfully discharged if sooner, [and that a warrant of arrest and committal be issued forthwith].

OR

be committed for contempt to prison for a (total) period of The order is suspended until and will not be put into force if during that time⁽²⁾ complies with the following terms:

i) ii) iii)

.....

[Insert name and title of judge]
Dated

This form is to be sent to the national media, via the CopyDirect service, and to the Judicial Office, at <mailto:judicialwebupdates@judiciary.gsi.gov.uk>, for publication on the website of the Judiciary of England and Wales.