

Note Re: Urgent Public Law Applications

1. There has been a recent increase in ineffective 'urgent' public law hearings.
2. I would like to take the opportunity to remind everyone of the *Northern Circuit Local Practice Direction 1/2020 – Urgent Family Applications to the District and Circuit Bench on the Northern Circuit* issued by Mr Justice MacDonald. A copy is available [here](#).
3. Further, I would be grateful if all stakeholders, and in particular local authorities could bear in mind the following matters when applying for an urgent interim removal hearing:
 - a. Public Law Hearings listed urgently, in particular where the removal of a child is proposed, often result in perceived or actual unfairness for the following reasons:
 - i. The respondents have not had appropriate time to instruct legal representatives and receive advice;
 - ii. Legal representatives have not had sufficient time to consider the evidence and give appropriate advice and take instructions;
 - iii. Vulnerable individuals (in particular parents) being at a considerable disadvantage by reason of the speed at which the matter has come to court; and
 - iv. The Children's Guardian has not had time to carry out sufficient enquiries so as to provide appropriate advice to the court at any urgent hearing. This is, for obvious reasons, a significant detriment to the court's ability to make fair and appropriate decisions about the welfare of children.
 - b. Further, urgent hearings, especially if ineffective by reason of an adjournment for one of the above reasons, are a waste of court, professionals' and the parties' time which could be better spent preparing for a properly constituted hearing.
 - c. Additionally urgent hearings displace other work being undertaken by all involved, including the court and professionals.
4. It has been brought to my attention that in a number of recent cases the fact that an 'urgent' hearing ended up being ineffective was predictable and in each case some other 'safety' arrangement was put in place as a holding position and the matter adjourned to a later date by which time all appropriate enquires could be undertaken (including by the Children's Guardian) and legal representatives properly instructed.
5. Examples of safety arrangements have included:
 - a. The child remaining in hospital after thorough consultation with the hospital staff;
 - b. Increased visits by social services staff;
 - c. An agreed temporary placement with a relative pursuant to section 20;
 - d. An agreed parent and child placement pursuant to section 20; and

- e. An enhanced written agreement between the carer and the local authority to address immediate concerns.
6. Urgent hearings should only be requested when all alternative safety arrangements have been properly and thoroughly explored so as to avoid unnecessary and time consuming but ineffective hearings.
7. Requesting an urgent hearing for the removal of a child from a current carer should be considered a serious act in and of itself by reason of the potential unfairness to respondents and the inability of a Children's Guardian to carry out appropriate investigations. Therefore, specific justification is required before the court will grant a request for an urgent hearing. If such a request is justified, the court will act swiftly to accommodate the request as soon as reasonably possible. However, such a request must include consideration of the alternatives in light of that potential unfairness.
8. **Where an urgent hearing is requested (i.e. *any* hearing requested to take place before the window for a Case Management Hearing) Local Authority evidence must include justification for a urgent hearing being requested and must include details of any steps explored or taken to ameliorate the immediate safety concerns and an explanation as to why those steps have not proved sufficient to adequately ameliorate the immediate safety risk(s) identified.**
9. The Application should indicate where in the SWET the matters set out at paragraph 8 above can be seen or dealt with by way of separate 'Statement of Urgency' filed at the same time as the SWET.
10. If the Local Authority evidence does not include the matters set out at paragraph 8 above, it is likely that the Gatekeeping Judge/Legal Adviser will not accede to the request for an urgent hearing and/or will give directions for such evidence to be filed before consideration is given to listing the matter urgently.
11. In the event that it is anticipated that an urgent hearing is likely to be contested the Local Authority should indicate a realistic time estimate for such a hearing and any directions sought at the Gatekeeping stage in preparation for the contested hearing.

HHJ C Baker
Designated Family Judge for Cumbria
30th July 2024