

CAYMAN ISLANDS



Supplement No. 2 published with Gazette No. 03
dated 10 February, 2014.

**THE PRACTICE CIRCULAR NO. 1/2014
REQUIREMENT FOR STRICT COMPLIANCE WITH COURT ORDERS MADE IN THE FAMILY DIVISION OF
THE GRAND COURT.**



PRACTICE CIRCULAR No. 1/2014

REQUIREMENT FOR STRICT COMPLIANCE WITH COURT ORDERS MADE IN THE FAMILY DIVISION OF THE GRAND COURT

1. Orders made by the Family Division of the Grand Court are not preferences, requests or mere indications; they are orders. Practitioners and those who appear before the Grand Court are reminded that orders, including interlocutory orders, must be complied with to the letter and on time.
2. In *Re W (A Child); Re H (Children)* [2013] EWCA Civ 1177 at paras. 52 & 53, Sir James Munby, President of the Family Division in England and Wales, stated:

"The court is entitled to expect - and from now on family courts will demand - strict compliance with all such orders. Non-compliance with orders should be expected to have and will usually have a consequence .

Let me spell it out. An order that something is to be done by 4pm on Friday, is an order to do that thing by 4pm on Friday, not by 4.21 pm on Friday let alone by 3.01 pm the following Monday or some time later the following week. A person who finds himself unable to comply timeously with his obligations under an order should apply for an extension of time before the time for compliance has expired. It is simply not acceptable to put forward as an explanation for non-compliance with an order the burden of other work. If the time allowed for compliance with an order turns out to be inadequate the remedy is either to apply to the court for an extension of time or to pass the task to someone else who has available the time in which to do it."¹

3. Sir James Munby reiterated his views at page 6 of his **7th View from the President's Chambers, January 2014:**

"What is for me a real concern is something symptomatic of a deeply rooted culture in the family courts which, however long established, will no longer be tolerated. I refer to the slapdash, lackadaisical and on occasions almost

¹ Underlining made for the purposes of the Practice Circular

contumelious attitude which still far too frequently characterises the response to orders made by family courts. There is simply no excuse for this. Orders, including interlocutory orders, must be obeyed and complied with to the letter and on time. Too often they are not. They are not preferences, requests or mere indications; they are orders. This principle applies as much to orders by way of interlocutory case management directions as to any other species of order. The court is entitled to expect – and from now on family courts will demand – strict compliance with all such orders. Both parties and non-parties to whom orders are addressed must take heed. Non-compliance with an order by anyone is bad enough. It is a particularly serious matter if the defaulter is a public body. Non-compliance with orders should be expected to have and will usually have a consequence: see Re W (A Child), Re H (Children) [2013] EWCA Civ 1177."

4. Regrettably the concerns expressed by the President of the Family Division in England and Wales are equally applicable to the response to orders from a number of attorneys and parties involved in proceedings before the Family Division of the Grand Court.
5. This Circular reaffirms the intention of the Judges that due regard be paid to the guidance given in the case law as summarised above by Sir James Munby.
6. Accordingly, persons who appear before the Grand Court are expected to comply with their plain and unqualified obligation to comply with the terms of a Court order made against or in respect of them, unless or until it is discharged. This obligation applies to all forms of orders including interlocutory case management directions.
7. If parties are unable to comply with the terms of an order, they are not entitled to agree a variation of the order without obtaining the Court's approval, and therefore must make the appropriate application to the Grand Court before the time for compliance has expired.

Issued by the Chief Justice following discussion with the Judges of the Family Division.



Hon. Anthony Smellie
Chief Justice

29 January 2014