

President's Circular

2 August 2013

Committals

You will recall the Guidance on Committals issued by the LCJ and me on 3 May 2013 and the supplemental Guidance I issued on 4 June 2013. In relation to the latter may I remind you of paragraph 5.

A question has arisen as to whether paragraph 6 of the original Guidance applies in all committal cases or only in cases to which paragraphs 4 and 5 apply.

Paragraph 6 applies in EVERY case in which a committal order or a suspended committal order is made, WITHOUT EXCEPTION.

Paragraph 6 thus applies whether the committal application has been heard in public or in private and whether or not the contemnor has admitted the contempt(s).

Paragraph 6(a) makes clear that the judgments to which paragraph 6 apply 'include' any judgment given in accordance with paragraph 5 and any statement given in accordance with paragraphs 4 and 5. But it is not limited to such judgments or statements. The word 'includes' has its ordinary meaning of 'includes, but is not limited to'.

The principle is very clear and MUST be rigorously followed. NO-ONE is EVER to be committed for contempt of court by a family court or the Court of Protection (whether the sentence is suspended or takes immediate effect) without (a) the name of the contemnor (b) proper details of the contempt(s) and (c) the reasons for the committal being made publicly available in a judgment published on the BAILII website.

In a case where the contemnor has admitted the contempt(s), the judgment required by paragraph 6 may take the same kind of form as sentencing remarks in the Crown Court, so long as (and this is VITAL) what is said in court and then put up on BAILII sets out the name of the contemnor, proper details of the contempt(s) and the reasons for the committal.

We shall be subject to strong and entirely justifiable criticism if it emerges that anyone has been committed since 3 May 2013 without the name of the contemnor, proper details of the contempt(s) and the reasons for the committal appearing on BAILII. I very much hope that there are no such cases. If there are, it is ESSENTIAL that steps are IMMEDIATELY taken to ensure that the judgment is put up on BAILII.

In the unlikely event of there being any difficulties with BAILII the matter is to be reported to me IMMEDIATELY.

James Munby P