

Royal Court of Jersey

FD21/03

Practice Direction (Family Division) Evidence and Submissions

Limiting Evidence

1. In line with the overriding objectives under Rule 47 of the Matrimonial Causes Rules 2005 and Rule 4 of the Children Rules 2005 (the "Overriding Objectives"), the court must deal with cases justly, and actively manage cases. Active management includes regulating the extent of disclosure and expert evidence, but, furthermore, includes limiting written evidence unless the court is satisfied that such evidence serves the applicable Overriding Objective.
2. Parties should not file or serve documentation unless permitted to do so by act of court, law, rule or by practice direction and in furtherance of that principle, parties should not seek disproportionate or unnecessary disclosure. This is to ensure that the parties do not incur avoidable costs and that the documentation which is produced for the purposes of hearings is relevant and concise and that every effort is made to reduce the emotional and financial costs of disputes on the parties and the children whose interests concern the court.
3. By way of example:-
 - 3.1 parties are expected to limit the number of requests for further information or documentation to those which are reasonable and proportionate to the dispute; written requests for parties to explain or justify spending of sums which are de minimis in the context of the case concerned should be avoided;
 - 3.2 parties should not make written requests for further information and documentation which put their own case or contain questions more properly put in cross-examination;
 - 3.3 parties should not serve or file evidence or documentation unless specifically required to do so by the court;
 - 3.4 the court is unlikely to wish to see *inter partes* correspondence produced at, or in advance of, hearings unless, for example, the court has agreed that costs issues are to be determined;
 - 3.5 save in exceptional circumstances, the court is unlikely to want to see, for example, copies of electronic messages between the parties or

recordings of telephone or video calls unless, for example, the welfare of a child requires the court to consider such evidence.

Content of Evidence and Correspondence

4. The court is bound by the Overriding Objectives to ensure that distress to all parties is minimised. While the court readily acknowledges that advocates are bound to act in the best interests of their clients, and will wish to represent their clients firmly and fairly, best interests rarely mean that advocates should descend into unpleasant and personal exchanges which do little to foster the spirit of compromise.
5. Good family practice means that parties owe the other party and the court a positive duty to avoid making unjustifiable and inflammatory comments, threats or allegations in court or in correspondence, as these serve only to increase the temperature, making settlement less likely, increasing costs and potentially causing emotional harm to children by provoking avoidable conflict. Language used should be moderate and emotive language should be avoided at all costs.

This Practice Direction will come into force with immediate effect.

14 July 2021