

PRACTICE DIRECTION – ENFORCEMENT

This practice direction supplements Part 21 of the Court of Protection Rules 2007

PRACTICE DIRECTION A – CONTEMPT OF COURT

General

1. This practice direction applies to any application for an order for committal of a person to prison for contempt of court (“the committal application”).

Applications for committal after permission granted or where permission not needed

2. An application for an order of committal must be commenced by filing a COP9 application notice in accordance with Part 21.
3. The applicant must file the original and one copy of the application notice, together with the original and one copy of the affidavit that is required by rule 186(1).
4. The affidavit must contain:
 - (a) the name and description of the person making the application;
 - (b) the name, address and description of the person sought to be committed;
 - (c) the grounds on which committal is sought;
 - (d) a description of each alleged act of contempt, identifying:
 - (i) each act separately and numerically, and
 - (ii) if known, the date of each act; and
 - (e) any additional information required by paragraphs 5 and 6.
5. Where the allegation of contempt relates to prior proceedings before the court, the affidavit must also state:
 - (a) the case number of those prior proceedings;
 - (b) the date of the proceedings; and
 - (c) the name of P.

6. The affidavit must also set out in full any order, judgment or undertaking which it is alleged has been disobeyed or broken by the person sought to be committed. This will apply where the allegation of contempt is made on the grounds that:
 - (a) a person is required by a judgment or order to do an act, and has refused or neglected to do it within the time fixed by the judgment or order or any subsequent order;
 - (b) a person has disobeyed a judgment or order requiring him to abstain from doing an act; or
 - (c) a person has breached the terms of an undertaking which he gave to the court.

(Practice direction A accompanying Part 14 sets out further details in relation to affidavits.)

Hearing of application

7. When filing the application notice, the applicant must obtain from the court a date for the hearing of the committal application.
8. The court may at any time give case management directions (including directions for the service of evidence by the person sought to be committed and evidence in reply by the applicant) or may hold a directions hearing.
9. The court may on the hearing date:
 - (a) give case management directions with a view to a hearing of the committal application on a future date; or
 - (b) if the committal application is ready to be heard, proceed forthwith to hear it.
10. Where the person sought to be committed gives oral evidence at the hearing (in accordance with rule 187), he may be cross-examined.