

COMMITTAL FOR CONTEMPT OF COURT

PRACTICE GUIDANCE

issued on 3 May 2013 by

LORD JUDGE, LORD CHIEF JUSTICE OF ENGLAND AND WALES
and
SIR JAMES MUNBY, PRESIDENT OF THE FAMILY DIVISION and
PRESIDENT OF THE COURT OF PROTECTION

1. It is a fundamental principle of the administration of justice in England and Wales that applications for committal for contempt should be heard and decided in public, that is, in open court.
2. This principle applies as much to committal applications in the Court of Protection (rule 188(2) of the Court of Protection Rules 2007) and in the Family Division (rule 33.5(1) of the Family Procedure Rules 2010) as to committal applications in any other Division of the High Court.
3. The Court of Protection and, when the application arises out of proceedings relating to a child, the Family Division, is vested with a discretionary power to hear a committal application in private. This discretion should be exercised only in exceptional cases where it is necessary in the interests of justice. The fact that the committal application is being made in the Court of Protection or in the Family Division in proceedings relating to a child does not of itself justify the application being heard in private. Moreover the fact that the hearing of the committal application may involve the disclosure of material which ought not to be published does not of itself justify hearing the application in private if such publication can be restrained by an appropriate order.
4. If, in an exceptional case, a committal application is heard in private and the court finds that a person has committed a contempt of court it must state in public (rule 188(3) of the Court of Protection Rules 2007; Order 52 rule 6(2) of the Rules of the Supreme Court 1965):
 - (a) the name of that person;
 - (b) in general terms the nature of the contempt of court in respect of which the committal order [committal order for this purpose includes a suspended committal order] is being made; and
 - (c) the punishment being imposed.

This is mandatory; there are no exceptions. There are never any circumstances in which any one may be committed to custody without these matters being publicly stated.

5. Committal applications in the Court of Protection or the Family Division should at the outset be listed and heard in public. Whenever the court decides to exercise its discretion to sit in private the judge should, before continuing the hearing in

private, give a judgment in public setting out the reasons for doing so. At the conclusion of any hearing in private the judge should sit in public to comply with the requirements set out in paragraph 4.

6. In every case in which a committal order or a suspended committal order is made the judge should take appropriate steps to ensure that any judgment or statement complies with paragraphs 4 and 5 and that as soon as reasonably practicable:
 - (a) a transcript is prepared at public expense of the judgment (which includes for this purpose any judgment given in accordance with paragraph 5 and any statement given in accordance with paragraphs 4 and 5);
 - (b) every judgment as referred to in (a) is published on the BAILII website;
and
 - (c) upon payment of any appropriate charge that may be required a copy of any such judgment is made available to any person who requests a copy.