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Response to **Proposed amendment to the bundles practice direction – PD 27A**

Issued by **President of the Family Division**

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Introduction

The President circulated for consultation a memorandum proposing amendments to the Bundles PD - PD27A.

The MA welcomes the opportunity to respond to this consultation and the MA response to the questions posed and additional comments are outlined below.

Is having internal page limits desirable?

The MA believes that having internal page limits is helpful and would support having them. In addition to having an overall page limit the page limit for individual elements will be a helpful guide for parties to direct them as to what the overall limit would compose of. The internal page limit should help parties structure the length of the bundle and help them understand what would be the most helpful length for judges for each component part.

The internal page limit will also be helpful for magistrates as it will enable them to pick parties up on the length of individual sections, rather than just commenting on the overall length.

Should the length be controlled by a page count or a word count?

The MA believes page limits (with direction on font size) are preferable to word limits. Page counts can be easily assessed by judges including with printed out bundles. Word counts may be more difficult to determine in paper format and in some case electronically, dependent on the file type/ programs available to the judges.

If by page count, are the suggested figures appropriate?

The MA is able to respond to the page counts from the experience of family magistrates and in relation to the cases which come before family magistrates.

With the exceptions of the amendments suggested below the MA is in agreement with the proposed page limits.

○ Chronology

The 10 page limit for chronology seems too long for most cases; if needed it could be specifically applied for.

- **Expert report**

The 40 page limit for an expert report seems too long.

- **Skeleton argument**

The 15 page limit for the skeleton argument seems too long. However we acknowledge this may be more appropriate for cases before the higher judiciary.

- **Additional exhibits**

Should there be a limit on the size of additional exhibits? For instance sometimes extensive pages of contact notes are provided, which may or may not be relevant. Police disclosure is also often very voluminous with only a few paragraphs being relevant.

350 page limit and enforcement

- Since the 350 page limit came in to effect, it has reduced the size of the bundles magistrates are presented with.
- Magistrates report that in many cases at the Issues Resolution Hearing (IRH) and the Final Hearing bundles are still near or over the 350 page limit.
- Magistrates report that parties often do not seek permission to exceed the 350 page limit, they just exceed the limit without permission.
- Magistrates report that some parties have responded to requests from magistrates to reduce the size of bundles, but others have carried on exceeding the limit regardless.
- Whilst the MA agrees with having internal page limits. However due to the experiences of magistrates having problems enforcing the 350 page limit, as described above, enforcement might also be an issue for the internal page limits. The MA would therefore welcome any effective means of enforcing the new proposals.
- Suggested ways of enforcing the limits include:
 - Making explicit reference to the limits in the directions, especially at IRH
 - Magistrates have had some (mixed in terms of outcomes) experience of at IRH trying to ensure bundles for the Final Hearing are PD27 compliant. Much can be achieved by judicious weeding of earlier documents in the bundle (e.g. position statements for earlier hearings, old sets of directions) but local authorities need to be prompted to think about this.
 - Could the terms of payment for experts be dependent on keeping within specified page limits? If the limit is exceeded payment could be withheld or reduced.
 - Could spreadsheets be used which set out for each bundle how many pages were in each section and where those exceeded the Practice Direction limits? Individuals or organisations which frequently exceeded the limits could be highlighted. This information could then be brought to the attention of the local Family Justice Board or local performance groups.

Completeness of bundles

As well as the length the other issue with bundles is completeness. For instance, in many cases judges are getting position statements on the morning of the hearing.