

## **Non-compliance with Case Management Orders And Request for Extension of Time for Compliance**

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1. This Guidance Note relates to non-compliance with case management orders handed down by the court and requests of extension of time for compliance.
2. As a general rule, pursuant to the overriding objective and the requirement to avoid contumacious default, every party to proceedings must comply explicitly with the court's case management orders.
3. Inevitably circumstances may arise in which compliance with a time limit for performance cannot be met because of a supervening event which could not have been anticipated by the court or the parties at the time that the order was made. Such circumstances should only require an adjustment to the court's timetable in the most extreme exigency and, more rarely still, give rise to an application for the adjournment or vacation of a hearing.
4. When the prospect of difficulty in compliance with a time limit set by the court first becomes known the party from whom compliance is required should immediately notify the court and the other parties of the difficulty anticipated. Consent should be sought from the other parties to any extension proposed, and any consequent re-adjustment of the timetable agreed.
5. Application should then be made to the Court on notice setting out the reason for non-compliance, the extent of the delay, the adjustment to the timetable required and, if it be the case, confirming that all of the parties consent and that the next hearing is not placed in jeopardy. Where the agreement of all parties has not been secured the court will normally require a hearing of the application and an ELH should be provided. A draft of any order proposed should be attached to the application and, where it is agreed, it should be expressed to be made with the consent of all parties.
6. In the exceptional circumstance that a hearing must be adjourned or vacated the reasons must be compellingly stated and such a course will not be adopted by the court unless it is unavoidable.

7. Whilst the court retains a wide discretion with regard to issues of costs, the costs of an application for an extension of time will normally fall against the party making the application in accordance with general principles. Where there is culpable delay which has given rise to the application the court should consider a range of sanctions proportionate to the default including the discretion to order costs against third parties responsible for importing delay into proceedings, but such an order will generally only be available after issuing the appropriate notice to show cause.
  
8. In an urgent case, in which consultation with other parties has been rendered impossible prior to an application, the court may be invited to make an order without notice to one or more parties, and if satisfied that it is justified the court may do so but must stipulate within any such order that any party without notice of the application may apply for permission to set aside, vary or discharge the order on written application.

HHJ Rawkins  
Designated Family Judge  
July 2014.