

CAYMAN ISLANDS



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PRACTICE CIRCULAR No. 9/2014
(GCR O.1, r.12)
(GCR O. 52)
(GCR O.6(11))

**COMMITTAL FOR CONTEMPT OF COURT – FAMILY DIVISION and IN “COURT
OF PROTECTION MATTERS”**



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(GCR O. 52)
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COMMITTAL FOR CONTEMPT OF COURT – FAMILY DIVISION and IN “COURT OF PROTECTION MATTERS”

1. It is a fundamental principle of the administration of justice in the Cayman Islands that applications for committal for contempt should be heard and decided in public, that is, in open court.
2. The Grand Court when dealing with matters concerning the property of a person under disability or when dealing with the applications arising out of proceedings relating to a child¹, is vested with a discretionary power to hear a committal application in private protection matters”. 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 “respect of a protection matter 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 Moreover the fact that the hearing of the committal application may involve the disclosure of material which ought not to be published does not of itself justify hearing the application in private if such publication can be restrained by an appropriate order.
3. 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 as required by Order 52 rule 6(2) of the Grand Court Rules:
 - (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.

¹ That is: in terms of GCR O.52(5)(i)(a) in relation to children: “where the application arises out of proceedings relating to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of a child, or rights of access to a child”.

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.

4. Committal applications should at the outset be listed and heard in public. This applies to every committal application without exception. The application should be shown in the public court list as follows:

FOR HEARING IN OPEN COURT

Application by [full names of applicant] for
The Committal to prison of
[full names of the person alleged to be in contempt]

5. Whenever the court decides to exercise its discretion to sit in private the judge should, before continuing the hearing in private, give reasons in public 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 3. If the judge, having decided to continue in private, adjourns the hearing to a future date the application should be shown in the public court list as:

FOR HEARING IN PRIVATE

Application by [full names of applicant] for
The Committal to prison of
[full names of the person alleged to be in contempt]

6. A person who is not a party to the proceedings is not entitled as of right to a copy of the application notice. The court may, however, authorize such a person to obtain a copy. If in an exceptional case the court decides that a copy of the application notice is not to be made available to a person who requests it, the judge must set out in writing the reasons for doing so.
7. Whenever a committal application is being heard in public the judge and the attorneys should be robed.

DATED this 2nd day of May 2014

The Hon. Anthony Smellie, QC
Chief Justice