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Anastasia is a trainee solicitor in the team, who helps with a wide range of complex dispute resolution matters with a focus on international commercial litigation and interim injunctive relief. As a native Russian speaker, Anastasia has been heavily involved in claims on behalf of individual and institutional clients from Russia and the CIS.

Changes to Civil Procedure Rules for Committal Proceedings coming into force on 1 October 2020

Following a consultation earlier this year, amendments to the Civil Procedure Rules ('CPR') concerning committal proceedings will come into force on 1 October 2020¹.

CPR Part 81 has been substituted in its entirety to streamline and simplify proceedings for contempt of court. The new rules (which have been reduced from 38 to 10) provide for some significant changes to the current regime², including:

1. The requirements of a contempt application are set out in a new rule 81.4 and state that each application must be supported by written evidence given by affidavit or affirmation and include all of the following statements (unless wholly inapplicable):
 - a. the nature of the alleged contempt;
 - b. the date and terms of any order allegedly breached or disobeyed;
 - c. confirmation that any such order was personally served, and the date it was served, unless the court or the parties dispensed with personal service;
 - d. if the court dispensed with personal service, the terms and date of the court's order dispensing with personal service;
 - e. confirmation that any order allegedly breached or disobeyed included a penal notice;
 - f. the date and terms of any undertaking allegedly breached;
 - g. confirmation of the claimant's belief that the person who gave any undertaking understood its terms and the consequences of failure to comply with it;
 - h. a brief summary of the facts alleged to constitute the contempt, set out numerically in chronological order;
 - i. that the defendant has the right to be legally represented in the contempt proceedings;

¹ As the [Civil Procedure \(Amendment No. 3\) Rules 2020](#) (the 'Amendment SI').

² See the Schedule to the Amendment SI.



- j. that the defendant is entitled to a reasonable opportunity to obtain legal representation and to apply for legal aid which may be available without any means test;
- k. that the defendant may be entitled to the services of an interpreter;
- l. that the defendant is entitled to a reasonable time to prepare for the hearing;
- m. that the defendant is entitled but not obliged to give written and oral evidence in their defence;
- n. that the defendant has the right to remain silent and to decline to answer any question the answer to which may incriminate the defendant;
- o. that the court may proceed in the defendant's absence if they do not attend but (whether or not they attend) will only find the defendant in contempt if satisfied beyond reasonable doubt of the facts constituting contempt and that they do constitute contempt;
- p. that if the court is satisfied that the defendant has committed a contempt, the court may punish the defendant by a fine, imprisonment, confiscation of assets or other punishment under the law;
- q. that if the defendant admits the contempt and wishes to apologise to the court, that is likely to reduce the seriousness of any punishment by the court;
- r. that the court's findings will be provided in writing as soon as practicable after the hearing; and
- s. that the court will sit in public, unless and to the extent that the court orders otherwise, and that its findings will be made public³.

This provides a helpful checklist of the points that need to be borne in mind for any application.

2. Personally serving committal proceedings can often be expensive and time-consuming. The new Part 81 seeks to address this by providing a mechanism for service on a legal representative of a defendant on record in the relevant proceedings:
 - a. the contempt application and evidence in support may be served on the representative for the defendant unless the representative objects in writing within seven days of receipt of the application and evidence in support;
 - b. if the representative does not object in writing, they must at once provide to the defendant a copy of the contempt application and the evidence supporting it and take all reasonable steps to ensure the defendant understands them;
 - c. if the representative objects in writing, the issue of service shall be referred to a judge of the court dealing with the contempt application; and the judge shall consider written representations from the parties and determine the issue on the papers, without (unless the judge directs otherwise) an oral hearing⁴.
3. Pursuant to the new rule 81.6 the court can initiate contempt proceedings of its own initiative and require the parties to give assistance with the same.
4. The new rule 81.8 provides clear instructions as to circumstances when a Part 81 application can be heard in public or in private and the procedure for both, including a requirement for the court

³ See new rule 81.4(2).

⁴ See new rule 81.5(2).



to consider submissions from the media as to whether to hold the hearing in private and to notify the press if some of the hearing will be in private⁵. Following the hearing, whether in public or in private, a judgment stating the findings and any punishment shall be given in public⁶.

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For access to the full text of the Civil Procedure (Amendment No. 3) Rules 2020 click [here](#).

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⁵ See new rules 81(8)(4)-(5).

⁶ See new rule 81.8(6).