

A-Z Family Law

Amanda Jepson: Hello and welcome to *FortyTwo Talks*, the podcast which takes a deep dive into the legal world, led by the experienced members of 42BR Barristers. I'm Amanda Jepson, I'm a member of the family team at 42BR, and I'm delighted to be joined by Zoe McGrath to discuss the A-Z Family Law Questions.

Zoe McGrath: So, we've been very lucky to have questions sent in to us that we can answer. So we will take them in order and see what we think is important to say. So, question one Amanda, maybe you can start and then we'll both have an input into what we want to say about it.

So question one: *'How do you deal with a litigant in person when they're constantly emailing the court and copying them into correspondence, trying to sway a narrative, but then the judge makes comments via the court on the subject, either amending the order made at court or adding recordings? It's leading to very frustrated clients and I can see why.'*

I agree. This is a really difficult topic.

AJ: And I think you had a really great idea about sort of trying to cut them off at the knees at the get go, to say don't, putting boundaries in place for litigants in person right from the start. It is really frustrating but most judges will see through that kind of activity, I would hope. It may be that they're adding recordings that actually reflect what was discussed at court, but not something that made its way into post hearing discussions. But if it's genuinely something new, then adding information that wasn't at the hearing I would have thought is appealable, on the basis that you're dealing with what took place in the court, not afterwards.

ZM: Yes, absolutely. I think there's two points to that. One is, generally, if a litigant in person is being a pest, it might actually benefit you and your client in some way, because they are saying things to the judge completely untethered that often will demonstrate what you're trying to say about that person anyway, because if they don't understand the rules of the court and how you're supposed to conduct litigation, even as a litigant in person, then probably that's going to be beneficial, but I think, I agree, when you know you're against a litigant in person, try to, in open court, while the judge is there and can comment, let the person know you make a formal application if you want the judge to address something, otherwise correspondences between the parties, judges aren't going to be copied in and, if they are, they won't read the email. I've certainly had quite a few judges that have said, in open court, if you email me, and not just for private law litigants in person, sometimes with advocates in other matters as well, if you email me and it's outside of the hearing, I'm not going to read it.

So perhaps put in place those boundaries that they know there's no point in copying the judge, but it is very frustrating and I think absolutely if a judge then does try to add something into an order because they've had correspondence and it wasn't discussed, you

just have to somehow politely remind the judge in email or by email that that wasn't discussed and that wasn't the order that was made. So it is tricky. Litigants in person can be very tricky, but I think it's about knowing from the outset this is potentially a tricky person and trying to front load in terms of management.

AJ: And I've got a case that's akin to the person which is an application to discharge care order and she will not stop emailing everyone under the sun, including MPs and that's another issue of when they step over the boundaries and they're going beyond what they can disclose, or their GPs that they decide to copy in. You can't actually stop people emailing, it's just toning it down, as you say, and accepting that there's only so much you can control and control what you can control and just let them go on with it.

ZM: Absolutely, and try to use what they're saying to your advantage, because usually it will be highlighting, as I said, what you want to demonstrate to the court in the first place.

Second question: *'What are your top tips for an effective submission?'*

AJ: I, well, it's trite, but read your papers so that you know what you're talking about, so that you can marshal your best arguments in a comprehensive way, but not a half hour speech, so make it, condense it into your three best points, for example, and make sure that you're accurate in terms of your factual matrix to back up those submissions.

ZM: Absolutely. Do not waffle is the main tip. Do not. And think about what does the judge, if you were the judge, what would you need to hear? What would be persuasive to you? And I think if you've got a case where your submissions are going to be really important, sometimes they're more important than others, actually write it out. Think about the language. Think about what word is best going to convey the point that you want to make as concisely as possible and go straight in with your concise submission. Don't try to pad it with lots of other information because it then gets lost going back to the waffle point. But certainly if it's an important submission I think it's really useful, I often write out exactly what I want to say. I don't necessarily stick to it like a script, because I don't think submissions are very good when you're reading a script, but for those really key submissions, I think it's really useful to know exactly what you want to say, why you want to say it, and what's the best and most concise way to say it.

AJ: Do you think there's much value in submissions though? Because I sometimes feel that the judge has heard the evidence, they've got to grips with what's the key part, so really you're just summing up and pointing them to the bits of evidence that you particularly want them to give attention to, aren't you?

ZM: Yes, absolutely. And some judges you even hear them say, don't they, 'oh, you know, you don't need to be too long. You've asked for 40 minutes. Why? I've heard the evidence. Why?' But then that's why I think effective, short, concise submissions because you have to put your case irrespective of how much the judge is, or isn't, going to listen to them because you might be thinking about an appeal if you think the judge is going against you, you need

to have made the submission for him to have thought about it. So, from that perspective, I think submissions can be very important. Are they always going to be persuasive and change a judge's mind? Possibly not because they've heard the evidence like everybody else, but I think it's still important that the submissions are made properly if they can be.

AJ: Do you put your case though, when you're cross examining someone, that's you putting your case? So your submissions are just a summary of those?

ZM: Yes. Yes.

AJ: Now that's the way I'd approach it as well.

ZM: Question three: *'How do you find you best prepare for hearings? And how do you get over the nerves of representing clients in court/advocacy? I'm returning to work shortly after a year of maternity leave and hadn't done much advocacy prior to my maternity leave starting, so I feel like I'm starting again as a trainee and I'm yet again quite anxious about advocacy.'*

I think this is a great question because I think it goes to lots of things. First of all, I think the best advice I've ever had is that most advocates do feel some anxiety or some nerves, especially when it's a big case, and that's perfectly normal. And even you will hear KCs, very experienced, in court all day, every day dealing with very complex matters, saying that sometimes they get nervous and that if they didn't, perhaps they shouldn't be doing the job anymore. So I think don't be afraid of nerves because sometimes they can be really beneficial to making sure you prepare properly, making sure you're taking it seriously, which we all do, but nerves aren't necessarily a bad thing.

Do you think you get nervous sometimes still?

AJ: For big cases, if I'm up against silks and I'm not obviously a silk then, you know, that's anxiety provoking. And it's how to, you can't get over them, they're there, but how to, and you know people say use them to your advantage, I'm not sure you can always do that, but acknowledge them, but put them to one side and preparation for me is the key, or if I'm particularly anxious, have your list of questions, or your mind map, or however it is that you prepare your case, doing as much preparation so that you're in the, that sort of settles the nerves, and you're in the best place to, to ask your questions.

ZM: And I think it's a case of just doing it, isn't it? No matter how nervous you are. And I remember my first ever hearing, I started to talk, I carried on talking and I kept talking...

AJ: Can't shut you up now.

ZM: ...and I forgot to breathe. And I just remember thinking I'm going to have to gasp in a breath at some point in a minute. But I think it's just by doing it you get that confidence that, once you've started, the nerves will go. And the job will kick in and you'll be able to manage

it. Take a deep breath. I think it's very, I personally haven't been overcome by nerves once I've started.

AJ: Yeah.

ZM: It's always the anticipation of, and I even dream my cross examination sometimes and my submissions because a case is playing on my mind. But I think that happens to lots of people and knowing it's lots of people as well is really helpful. But in terms of preparation, because that was the first part of the question, I think, as you said, preparation is really important for settling your nerves because if you know your case and you know what the papers say, you know you're not going to get caught out with anything.

I prepare differently for different hearings, obviously. If it's a trial that I'm preparing for, every single page of that bundle will have been read, I know my references, I have them easily accessible. Even for IRHs, you have to, I tend to have a sheet of what do we do with an IRH, I'm going to have to think about witnesses and so that I know mentally that I've thought about those things before the hearing starts.

Is there anything that you do in preparation that would be different?

AJ: No, I think I do pretty much that. It's where you start. So everyone starts somewhere different. Some people go straight to section E, for example, expert reports. I always start with section C, just because I really want to get a flavour for how the case is progressing and then move to section E, but I don't think there's any, you know, there's pluses and minuses with both approaches, but it's as you say, reading it all and I love police disclosure and I love miscellaneous because those are where you find the real gems.

ZM: I start with police disclosure.

AJ: Do you?

ZM: Always start with the police disclosure because I think usually the answer is in the police disclosure, or phone downloads. As tedious as they are, when there's thousands of pages, generally speaking, the answer to the question that the court has to answer is somewhere in that telephone disclosure. So I do tend to look at that, I think, first, providing it's a case, like you say, where you know the general parameters of what you're talking about and you know what each party's case is. But I don't think there's anything, any really particular advice that I can give about preparation other than just make sure you know your case and make sure you know the law. That sounds silly because you'd hope, as lawyers, we will go in knowing the law, but there will be things that you haven't looked at for a while and I think it's a really useful tool to always make sure you know what the law is.

AJ: I guess, how do you keep in touch with the current law? Like, you know, there's, there's certain, what's the word, patterns. So currently it's about intermediaries and whether you can have one for a whole trial or not. And the case law now is that you can't, but we're still sort of

going through that transition phase. There's always something that's a hot topic and it's how you keep in touch with what's going to be the hot topic in your case or in the area that you practice in. And that's through, I mean, I'm subscribed to various, family law week or whatever it might be or what's this Suspicious Minds is a good one.

ZM: Yes, Suspicious Minds is really good. I read that a lot. And just talking at court. Usually just having general conversation with other advocates at court, they will have had it come up and they'll be asking for opinions and I think that can be helpful. I think the intermediary one is a really good example though of why you have to actually read the case law and not just take the headlines from it.

AJ: Because that's not what that case says.

ZM: It's not what that case says. I've heard so many judges and other advocates saying, 'Oh, well, we're not allowed them anymore.' No, absolutely wrong. We are. And they still have a really important function, but you have to be clear in your mind what you need that intermediary for. How is that going to be beneficial to your client? But, more importantly, how is that going to help your client have a fair trial? And if you can say something persuasive in terms of why, for access to justice and for the hearing to be fair, you need an intermediary, most judges are still very open to it.

AJ: Some judges aren't, it's going to be a battle, it is a battleground. And as you say, you've just got to make persuasive arguments. It just feels wrong that we're even having to have an argument about it though.

ZM: It does feel like we're going backwards, which is a shame and obviously, probably, well, we all know it's because of money. But I have found intermediaries to be really useful because it's not, I can't have eyes in the back of my head. I don't know that my client is following the evidence or not following the evidence beyond the discussions we have outside of court. And it's the intermediary that can assist with that. It's a completely different function.

AJ: Yes.

ZM: And I think that's what I find interesting with judges, when they often say 'Oh, we're all trained, we all know the Advocates Gateway, we all know how to do this' and they take it as a personal criticism against the profession, that we now all of a sudden can't deal with vulnerable clients. Well, we can, but we have a very different role. And there is definitely room for intermediaries. But yes, going back to the case law, read the case law yourself, don't just read the headlines, don't just, you know, take on board what everybody else is saying. What does that case law actually say? so that you can make persuasive arguments if you need to.

AJ: Yes, I agree. Returning to work after your own maternity.

ZM: We've both done this.

AJ: We have.

ZM: More than once. One small tip, make sure you're going to the correct court because I returned from maternity leave and went to Chelmsford Family Court and in the year that I had been having my baby, it moved. And I was just looking at a block of residential homes for old people and I was like, that's not the court, this is a bit weird. So, simple things. Check where you're going, probably nothing has changed and I think that's the overwhelming piece of advice; as soon as you're back in court, you'll feel like you didn't have a baby and you haven't been anywhere. But those simple things. Check the address of the court.

AJ: Make sure you haven't got baby sick on your jacket because I've done that.

ZM: Try to make sure you haven't got baby sick on your jacket. That you have matching shoes if you're very tired.

AJ: And sometimes I went to court and I was so tired. I mean, there's nothing like sleep deprivation but, you know, we have a job where you can't call in sick unless there's a really, really good reason because you're letting down not just your client, but a whole, you know, a whole load of clients. Well, that's certainly the way I feel so, I think I've done it once when I couldn't walk because I put my back out. But that's the only time I've ever been sick.

ZM: And I think it's really important that we get better at sharing what's going on. And I think it's something that we've improved over the years because I know before, you know, people would have really serious things happening in their family. They didn't tell anybody, they're behaving oddly at court, but they haven't shared it. Whereas, nowadays, we all know how difficult this can be and how difficult balancing family life and this profession can be. So if you're having a difficult morning, say, because actually most people are very good colleagues and they will support you and tell you stories about when they've been through exactly the same.

But you're not starting again. I think that's the, you know, the key thing. You're not starting again and it will all kick straight back in as soon as you walk into the office or as soon as you walk into court. But it is just a, it's a natural thing to be nervous, but definitely rely on people around you, talk, tell people what you're feeling, that you're exhausted, that please ignore the sick on my jacket or whatever you've got going on that day, because people will make you feel better about it and will support you.

AJ: Because we've all been there.

ZM: Absolutely.

AJ: Or know someone who has and can be sympathetic.

ZM: Most definitely.

AJ: And I think that feeds into the next question about mindfulness, because it is, well mindfulness is probably more about the self than about others. I'm much better at dealing with other people's mindfulness than my own. In fact, I was too busy, I think it was this week or last week, to attend a mindfulness course because I was, I had back to back hearings, advocates meetings, whatever else, and an event, which I, I texted one of my solicitor colleagues and she went 'Mmm yes'.

ZM: Says it all.

AJ: Exactly.

ZM: Who was running the mindfulness course because it's not actually something I've heard about?

AJ: I think it came up on the FLBA website or it was on a flyer or something. And I thought, 'oh, that looks interesting, I'll join that.' And I think I managed five minutes and then had to dash off to an advocates meeting. But, you know.

ZM: So is it something that you try to do?

AJ: It's something I'd like to do. Is it something I try to do? No. I just, I think, it's a balancing act when you have family, you've got whatever, you know, older children, young children, older parents, whatever it might be, and I'm rubbish at balancing things and putting myself in the centre because I think you and I do the sort of cases we do because we think they're important so your focus is always outwards.

Do you?

ZM: No. And never thought about it in all honesty. Although obviously there's a lot isn't there about mindfulness now. So I obviously have heard of it and obviously I'm live to it and I think it is probably very beneficial for people to actually just take a moment sometimes and think about what they're doing and why they're doing it and being in the moment, but it's not something that I practice consciously anyway.

But I can see for everybody's mental health that it's probably a good thing to try to think about, take some space in the day to really acknowledge what you're doing, because I think sometimes as well, we carry so much in terms of what's happening for our clients and what's happening at court and it can be quite difficult sometimes to separate yourself from that and probably practicing something like mindfulness would be useful. But no, it's not something that I've ever done, but I'm certainly interested in attending the course next time they run it.

The second part of the question is: *'Do you ever have an opponent that is incredibly aggressive in the court arena, but then absolutely lovely outside of court? How do you deal with this and manage to separate and deal with the two personalities?'*

ZM: We've all had this. Definitely. I probably have a split personality myself and there can be both. But how do you deal with that when, I mean, I think I'm quite good at separating out the two things, I'm very aware that in court we have a job to do and outside of court we have discussions, it's all part of that job but it's distinct and separate and if I'm putting a case on behalf of a client, or somebody else's, forcefully, I know that they're doing their job, I don't take it personally. I think that can be difficult sometimes.

AJ: I think that there is a line though, they're talking about this aggressive in court, and I've never, it's rare that I've come across someone that's aggressive in court. They might be, as you say, assertive, focused on their client's position, which I might fundamentally disagree with, but it's, I think there's a line crossed when it, when you're being described as aggressive.

ZM: But then do you not think that comes down to people's personal opinions and views?

AJ: Well, and personalities.

ZM: Absolutely.

AJ: You know, what you may say is aggressive, if you called someone out on that, they would be horrified about it because that's not how they meant to come across. They were going for assertive and tipped over into aggressive.

ZM: Absolutely.

AJ: And sometimes you might actually need to call someone out on that and say you know look, I thought you were out of line there.

ZM: I agree. I was going to say exactly that. I think if I did come across somebody who I felt was being aggressive and therefore inappropriate, I would probably, outside of court, not in front of other people, say, I found that really difficult. Or, you know, like you say, call them out on it a bit. Why did you do that? Because usually they'll probably give you an explanation that you're quite surprised by and it might be that they're having a bad day, that they've got something going on in their life.

AJ: That they haven't shared with you.

ZM: Absolutely. But I do tend to try to see people's court persona and them as people as separate entities because I think some people do adopt a style that's quite different from who they are as a person but I think you're right, I think it's when it's moving into something

that's more like bullying than just forcefully putting a case and that would be different and then you'd have to think very carefully how you manage that. I would approach them separately, but perhaps if you think they're actually being aggressive, sometimes people do make complaints and need to make complaints if they've crossed a boundary. But again, do you, it's not something I've ever done.

AJ: I've never complained about a colleague. I have, I had an issue once with a judge who threw something at me. I don't know whether they...

ZM: That's definitely aggressive.

AJ: That's definitely aggressive. It's definitely crossing a line and I don't know whether they're a judge anymore. I don't know. It had nothing to do with me. But, there are steps. So, first step is you need to call them out on them on it, if you feel able to.

ZM: Yes.

AJ: Not everyone can. You might, I've had someone say to me that they felt uncomfortable with the way someone was behaving, and I have supported them in having that conversation with that person. Then those Chambers go to, Head of Chambers, that's what they're there for, to speak to, a complaints process. Each Chambers will have a complaints process, but there is also the Bar Council, the Bar Standards Board, not the Bar Council, the Bar Standards Board has their complaints line as well. I think there's an email, app, or an email address that you can make complaints to.

So there are stages, but I would take it in stages. And I'd be very cautious because we all have a bad day, as you just said. There may be things going on in their life that, you know, you know nothing about.

ZM: And the question says, and you know, they're aggressive in court, but lovely outside of court. So if they are lovely outside of court, maybe that is the time to have a conversation with them because they're not going to continue it outside of court. And you can say, I didn't really like that.

Next question: *'I act for the applicant father in a Children's Act matter. The respondent mother refuses to engage with CAFCASS, breaches the orders and directions given by the court and refuses to attend court or give any reasons for her failure to attend. My question is, how do we progress such a case where the child is under three years of age with a mother who flagrantly refuses to engage? This matter has been in court for a year and a half. What orders can we seek from the court to enable contact to ensue? How can mother be penalised for frustrating proceedings and costing our client unnecessary fees in the process? Thank you in advance for your assistance.'*

ZM: I have a very clear view on this. I think it's incredibly difficult when there is somebody that just doesn't engage with proceedings and there's very little that you can do, very

quickly, to change that because, as we know with Children Act proceedings, it tends to be when behaviours or actions accrue that eventually the court feel that they can actually do something about it.

In terms of costs and wasted costs, you do have to, first of all, question 'Was the hearing wasted? Did something happen that was able to progress the case in some way? Did you get your Section 7 report? Did you have a direction for other evidence?' Then it's not wasted. Your client's case is being progressed.

If it's the case that there's a hearing listed and nothing can happen because that person didn't turn up, then of course think about wasted costs orders and setting that up with the judge, making it clear that you're going to seek a costs order. But my go to in these circumstances when it is a repeated offender in terms of 'I'm just going to pretend this isn't happening and dig my head in the sand', I always make an application for a **live with order** if that's within the remit of what the client wants. Obviously you can't make an application if they don't want the child to live with them. But I think from my experience, when I've represented particularly fathers where there's a mum that's not engaging, as soon as you have on the face of the order that the father believes the mother's non engagement and lack of ability to support contact is an abuse of itself, and that they are going to seek a **live with order** and that the court will consider making orders without the other person being present, mum tends to turn up then. And I can think of numerous fathers that I've represented over the years where exactly this has happened and as soon as I've asked for a **live with order**, mum tends to engage to some degree.

Some have then ended up where they have moved. Not all, and it's very much trying to do anything that provokes a reaction by the party that isn't really playing ball. But that's what I tend to do in private law scenarios.

AJ: So would you make sure that the process is followed? So you get your, you know, you have your order that recalls, that you've made your application, you make sure it's served on them, so that you've got that evidence, that you've got a trail, a paper trail.

ZM: You have to do the basics.

AJ: On the face of the orders, making it absolutely clear that, you know, the court will make orders in their absence, and look at changing, you know.

ZM: Yes, and penal notices, you have to do everything. So you have to, you do have to prove that they are served, that they know about the hearing, they've chosen not to attend. That has to be on there. You do have to go down the road of penal notices. Are the court going to put her in prison? No. But you still have to go through all of those formalities. But alongside that, what are you trying to achieve? You're trying to get this person to engage, that hopefully you get to a point where you're having contact. So what's the thing that's going to provoke a reaction? She knows she's probably not going to be sent to prison. So,

risking having a child removed and I've also had cases where the local authority have stepped in, where the court have got to a point where they say,

AJ: Section 37.

ZM: Absolutely. Section 37 direction. Does this meet the threshold criteria? Get the local authority involved. And that can be, obviously that's extreme cases, it's not often that that will be appropriate but you need to think about what you're trying to achieve, what's going to create a response from that person.

AJ: And in terms of seeking costs, apart from there being an obvious hearing that is a wasted costs hearing, You'd have to really think about whether you're punishing your child rather than the mother of the child in making that application if the court made it, made the order, because are you taking money from a mother that, you know, is on benefits, who might not, you know, have the means to do it? Yes, she's been difficult, but she doesn't have the means to pay it. Should you be making that application, or as you say, make a **live with order** application?

ZM: Absolutely, and I think that point's a very good one, to the wider point of even with the **live with application**, you will often have judges, still, in this day and age, social workers, CAFCASS officers, who then feel that that father is being too aggressive in the way that they're putting their case.

AJ: And they've got no other options.

ZM: Absolutely. And you have to make very clear that this is because there are no other options and because this child is being harmed by the fact they're being denied a relationship. If you come along, mum, and if you play a part, and if we progress contact, the **live with application** isn't going to be pursued.

AJ: Yes, it's a tool.

ZM: Absolutely.

AJ: It's the only tool you've got really.

ZM: It is, and, and you, but you have to make that very clear I think sometimes in position statements.

AJ: You had that recently didn't you, in a magistrate's court where they, was it you that had a section 7 that, and it was one of these cases where mum wasn't engaging, wasn't allowing contact, and they were going to leave the child with the mother because, I don't know what it was, because it was better than moving. There was, you know, because it was magistrate,

they wouldn't look at that middle option where, which a circuit judge or a district judge, a bold district judge might do, of foster care.

ZM: Yes, I mean I did have, I had a really significant case this year, which started with private law proceedings where the mum absolutely would not engage. The court even made orders for contact that she would not engage with. So she was in breach of orders, both to attend and by not allowing the contact and that did progress to Children's Services involvement and it did progress to the child moving to live with dad. So I think, again, you have to balance, always, you always have to be thinking about what's right for the child. You can't proceed with an application that isn't going to be right for the child. But equally, you are representing one party, so you need to use all the tools that are available to you.

AJ: Mm-Hmm. I agree.

ZM: Next question?

AJ: What's the next question, are we on number six?

ZM: Yes.

AJ: *'Not so much a question but a thought/idea. Some family lawyers especially have got out of the habit of appearing in court post COVID and with the continuing use of agreed directions, ADR and online hearings, would a refresher course, emphasising it is aimed at returners, not just newly qualified, be something you would be interested in providing? It could also include a session on how to write a good set of instructions as a reminder to folks of what council need or don't want. I'm on the Kent Law Society Committee, and it may be this could be something we might look, perhaps, to co-host if of interest.'*

Well, certainly my experience, we've got back into the habit of court hearings, and we're back in court. As we were talking about earlier, I think people forget, and we did, we did all forget I think, how much you learn not just by doing the job but outside of court and those other discussions every day. Whether, and it may not necessarily be a legal point you are learning about, but I'm sure that we could run refresher courses or offer something like that, but I'm also certain that the, the Law Society and I'm sure the Bar Council run those types of refresher courses. I think more aimed at, not just new starters, but maternity returners from maternity leave, I'm fairly certain that they do. And we'd be happy to engage with Kent if they think, the Kent Law Society, if they thought that this is something that we could offer.

ZM: Absolutely. I mean, I agree, certainly something that we could do. In terms of going to court, I'm a big advocate for it. I wasn't one of those lawyers that enjoyed being in the living room with my pyjamas on my bottom half and a suit on the top half.

AJ: Listing to Joe Wiggs.

ZM: Absolutely. Because twofold: A) I think that particularly in family law, particularly in public law, when you're representing parents, you need to be at court. You can't communicate effectively, or as effectively, if you're remote. B) But also going back to the mindfulness and mental health, it's good for us to be out and communicating with people and talking to other lawyers. But I thought that part of the question was also interesting about what we need in a good brief, what's a good set of instructions?

AJ: One that tells me to read the bundle is not such a brief.

ZM: I thought you might say that.

AJ: Did you?

ZM: And having a brief that actually tells you what your client wants is useful. I know that that will be somewhere in the statement possibly, but usually there's some points. I don't like long briefs necessarily and I don't need you to set out the whole background but a one paragraph 'This is a child sex abuse case or this is a...', in a nutshell and then what it is your client would actually like. I think that's quite useful in a brief.

AJ: Yeah, yeah. And sometimes it's helpful because you end up going back and going, 'oh, and have you talked about this with the client?' So if you've had those discussions, it will save us both having a conversation that we don't need to have. If they've, say, I've asked the client about, you know, whether they want a fully contested hearing or whether they're happy for it to be dealt with on submissions.

ZM: Absolutely. And it speeds things up a bit as well, because obviously at some point before that hearing happens you are going to have read the whole bundle. But it might be that you've quickly read that brief two weeks before and there are things that you can go back to the solicitor and say. 'Can you check X, Y, and Z?' Whereas if you're waiting for me to read the whole bundle before I've got to that point, it might be that things are then being left to the last minute that didn't need to be, depending on obviously people's caseloads and how busy people are.

But I just think, short, brief, with a synopsis of the background and a synopsis of instructions is what I find most useful. But again, I think all of these things, it's helpful to have some guidance sometimes because we can get into, I used to be a solicitor, I know, you can get into bad habits and you might be busy yourself and just want to get that off your desk.

AJ: What's your worst brief then? What would be an awful brief for you to get?

ZM: I've certainly received briefs where it doesn't even tell me who I'm representing.

AJ: That's a good one, yes. You have to really work out, yeah.

ZM: Yes, so then I'm, okay, Whose name's on the order? Which solicitor's firm was it? Who am I actually representing in this case? I'd say that's definitely the worst.

AJ: I had one that was 14 pages the other day, which told me what had happened in every single hearing leading up to that point, which to be fair is, you know, some people might find helpful, I can, the whole point is I will read the bundle, so I think, you know, I'd rather a shorter brief that has exactly as you said, a synopsis. What discussions have you had? What does the client want? Off we go.

ZM: Yes. I do sometimes get briefs and this is, I think it makes sense. I can understand why they're drafted in the way that they are, but it's an update. So you have, so then you think, Oh, this is what the hearing is going to be about. But actually what you've read is the beginnings of the last brief. And then there's an update and you go, Oh no, this is what this hearing is about. Which again, it's fine. It certainly doesn't hurt because you've got a full understanding of what's happened in the past, but for me, I'd like to know what am I going to be doing at this hearing? What are the issues for this hearing?

That was very good.

AJ: If you found this podcast useful and of interest, then feel free to send us some more questions and we'll be happy to schedule another A to Z.

ZM: Yes, me and Amanda both have a really big interest in all areas of family law, so we're happy to answer really technical questions on law if that's what you would like, or we're happy to answer questions that are more like the questions that we've answered today, about practice and what that means. So anything you want to send us, we'd be grateful to receive the questions and hopefully we'll do this again.

Thank you very much for tuning in to *FortyTwo Talks*. We hope you enjoyed the podcast. To listen to other episodes, follow us on Spotify, Apple Podcasts or wherever else you get your podcasts.