

PRACTICE DIRECTION 12C

SERVICE OF APPLICATION IN CERTAIN PROCEEDINGS RELATING TO CHILDREN

This Practice Direction supplements FPR Part 12 (Procedure Relating to Children except Parental Order Proceedings and Proceedings For Applications In Adoption, Placement and Related Proceedings), rule 12.8 (Service of the application)

Persons who receive copy of application form

- 1.1** In relation to the proceedings in column 1 of the following table, column 2 sets out the documentation which persons listed in column 3 are to receive –

<i>Proceedings</i>	<i>Documentation</i>	<i>Who receives a copy of the documentation</i>
<ul style="list-style-type: none"> 1. Private law proceedings; public law proceedings; emergency proceedings (except those proceedings referred to in entries 2 and 3 of the Table below); proceedings for a declaration under rule 12.71 as to the existence, or extent, of parental responsibility under Article 16 of the 1996 Hague Convention; an order relating to the exercise of the court's inherent jurisdiction (including wardship proceedings) 	<ul style="list-style-type: none"> Application form (including any supplementary forms); Form C6 (Notice of proceedings); and in private law proceedings, the form of answer 	<ul style="list-style-type: none"> All the respondents to the application
<ul style="list-style-type: none"> 2. An enforcement order (section 11J of the 1989 Act); a financial compensation order (section 11O of the 1989 Act) 	<ul style="list-style-type: none"> As above 	<ul style="list-style-type: none"> All the respondents to the application; and where the child was a party to the proceedings in which the contact order was made – <ul style="list-style-type: none"> (a) the person who was the children's guardian or litigation friend in those proceedings; or (b) where there was no children's guardian or litigation friend, the person who was the legal representative of the child in those proceedings.
<ul style="list-style-type: none"> 3. A care or a supervision order (section 31 of the 1989 Act) 	<ul style="list-style-type: none"> As above and such of the documents specified in the Annex to Form C110 as are available 	<ul style="list-style-type: none"> All the respondents to the application; and Cafcass or CAF/CASS CYMRU

<i>Proceedings</i>	<i>Documentation</i>	<i>Who receives a copy of the documentation</i>
<ul style="list-style-type: none"> ● 4. Proceedings for an order for the return of a child under the 1980 Hague Convention or registration of an order under the European Convention 	<ul style="list-style-type: none"> ● As above and the documents referred to in part 2 of the Practice Direction 12F (International Child Abduction) 	<ul style="list-style-type: none"> ● All the respondents to the application

(Rule 12.3 sets out who the parties to the proceedings are.)

- 1.2** When filing the documents referred to in column 2 of the Table in paragraph 1.1, the applicant must also file sufficient copies for one to be served on each respondent and Cafcass or CAFCASS CYMRU.
- 1.3** Where the application for an order in proceedings referred to in column 1 of the Table in paragraph 1.1 is made in respect of more than one child all the children must be included in the same application form.
- 1.4** The applicant will serve Form C6A (notice to non parties) on the persons referred to in the Table in paragraph 3.1 at the same time as serving the documents in column 2 of the Table in paragraph 1.1.

Time for serving application

- 2.1** In relation to the proceedings in column 1 of the following table, column 2 sets out the time period within which the application and accompanying documents must be served on each respondent –

<i>Proceedings</i>	<i>Minimum number of days prior to hearing or directions appointment for service</i>
<ul style="list-style-type: none"> ● 1. Private law proceedings; and proceedings for – <ul style="list-style-type: none"> ● an order permitting the child's name to be changed or the removal of the child from the United Kingdom (33(7) of the 1989 Act); ● an order permitting the local authority to arrange for any child in its care to live outside England and Wales (Schedule 2, paragraph 19(1) of the 1989 Act); ● a contribution order (Schedule 2, paragraph 23(1) of the 1989 Act); ● an order revoking a contribution order (Schedule 2, paragraph 23(8) of the 1989 Act); ● an appeal under paragraph 8(1) of Schedule 8 to the 1989 Act; ● an order relating to the exercise of the court's inherent jurisdiction (including wardship proceedings); ● a declaration under rule 12.71 as to the existence, or extent, of parental responsibility under Article 16 of the 1996 Hague Convention. 	14 days

<ul style="list-style-type: none"> ● 2. Proceedings for – ● a residence order under section 8 of the 1989 Act relating to a child who is the subject of a care order; ● a special guardianship order relating to a child who is the subject of a care order (section 14A of the 1989 Act); ● an education supervision order (section 36 of the 1989 Act); ● an order discharging a care order (section 39(1) of the 1989 Act); ● an order varying or discharging a supervision order (section 39(2) of the 1989 Act) or extending or further extending a supervision order under paragraph 6(3) of Schedule 3 to the 1989 Act; ● an order varying a supervision order in so far as it affects the person with whom the child is living (section 39(3) of the 1989 Act); ● an application to substitute a supervision order for a care order (section 39(4) of the 1989 Act); ● an order extending an education supervision order (Schedule 3, paragraph 15(2) to the 1989 Act); ● an order discharging an education supervision order (Schedule 3, paragraph 17(1) to the 1989 Act) 	7 days
<ul style="list-style-type: none"> ● 3. Proceedings for – ● a care or supervision order (section 31 of the 1989 Act); ● an order making provision for contact under section 34(2) to (4) of the 1989 Act or an order varying or discharging such an order under section 34(9) of the 1989 Act; ● an order varying directions made with an interim care order or interim supervision order under section 38(8)(b) of the 1989 Act; ● an order under section 39(3A) of the 1989 Act varying or discharging an interim care order in so far as it imposes an exclusion requirement on a person who is not entitled to apply for the order to be discharged; ● an order under section 39(3B) of the 1989 Act varying or discharging an interim care order in so far as it confers a power of arrest attached to an exclusion requirement. ● a child assessment order (section 43(1) of the 1989 Act) 	3 days
<ul style="list-style-type: none"> ● 4. Proceedings for an order for the return of a child under the 1980 Hague Convention or registration of an order under the European Convention 	4 days
<ul style="list-style-type: none"> ● 5. An order varying or discharging a child assessment order (section 43(12) of the 1989 Act) 	2 days
<ul style="list-style-type: none"> ● 6. Emergency proceedings; and ● proceedings for a secure accommodation order (section 25 of the 1989 Act); 	1 day

2.2 The court may extend or shorten the time period referred to in column 2 of the table in paragraph 2.1 (see rule 4.1(3)(a)).

- 2.3** Where the application is to be served on a child, rule 6.33 provides that, in addition to the persons to be served in accordance with rules 6.28 and 6.32, the application must also be served on the persons or bodies listed in rule 6.33(3) unless the court orders otherwise.

Persons who receive a copy of Form C6A (Notice to Non-Parties)

- 3.1** In relation to each type of proceedings in column 1 of the following table, the persons listed in column 2 are to receive a copy of Form C6A (Notice of Proceedings/Hearing/Directions Appointment to Non-Parties) –

<i>Proceedings</i>	<i>Persons to whom notice is to be given</i>
<ul style="list-style-type: none">● 1. All applications	<ul style="list-style-type: none">● Subject to separate entries below: local authority providing accommodation for the child; persons who are caring for the child at the time when the proceedings are commenced; and in the case of proceedings brought in respect of a child who is alleged to be staying in a refuge which is certified under section 51(1) or (2) of the 1989 Act, the person who is providing the refuge
<ul style="list-style-type: none">● 2. An order appointing a guardian (section 5(1) of the 1989 Act)	<ul style="list-style-type: none">● As for all applications; and the father or parent (being a woman who is a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008) of the child if that person does not have parental responsibility
<ul style="list-style-type: none">● 3. A section 8 order (section 8 of the 1989 Act)	<ul style="list-style-type: none">● As for all applications; and, every person whom the applicant believes – (i) to be named in a court order with respect to the same child, which has not ceased to have effect; (ii) to be party to pending proceedings in respect of the same child; or (iii) to be a person with whom the child has lived for at least 3 years prior to the application, unless, in a case to which (i) or (ii) applies, the applicant believes that the court order or pending proceedings are not relevant to the application

Proceedings

Persons to whom notice is to be given

- 4. A special guardianship order (section 14A of the 1989 Act);
variation or discharge of a special guardianship order (section 14D of the 1989 Act).

- As for all applications; and every person whom the applicant believes –
 - (i) to be named in a court order with respect to the same child, which has not ceased to have effect;
 - (ii) to be party to pending proceedings in respect of the same child; or
 - (iii) to be a person with whom the child has lived for at least 3 years prior to the application,unless, in a case to which (i) or (ii) applies, the applicant believes that the court order or pending proceedings are not relevant to the application;
- if the child is not being accommodated by the local authority, the local authority in whose area the applicant is ordinarily resident; and
- in the case of an application under section 14D of the 1989 Act, the local authority that prepared the report under section 14A(8) or (9) in the proceedings leading to the order which it is sought to have varied or discharged, if different from any local authority that will otherwise be notified

- 5. An order permitting the local authority to arrange for any child in its care to live outside England and Wales (Schedule 2, paragraph 19(1) of the 1989 Act)

- As for all applications; and the parties to the proceedings leading to the care order

- 6. A care or supervision order (section 31 of the 1989 Act)

- As for all applications; and every person whom the applicant believes to be a party to pending relevant proceedings in respect of the same child; and every person whom the applicant believes to be a parent without parental responsibility for the child

- 7. A child assessment order (section 43(1) of the 1989 Act)

- As for all applications; and every person whom the applicant believes to be a parent of the child;
- every person whom the applicant believes to be caring for the child;
- every person in whose favour a contact order is in force with respect to the child; and
- every person who is allowed to have contact with the child by virtue of an order under section 34 of the 1989 Act

- 8. An order varying or discharging a child assessment order (section 43(12) of the 1989 Act)

- The persons referred to in section 43(11)(a) to (e) of the 1989 Act who were not party to the application for the order which it is sought to have varied or discharged

- 9. An emergency protection order (section 44(1) of the 1989 Act)

- As for all applications above; and every person whom the applicant believes to be a parent of the child

- 10. An order varying a direction under section 44(6) in an emergency protection order (section 44(9)(b) of the 1989 Act)

- As for all applications; and
- the local authority in whose area the child is living; and
any person whom the applicant believes to be affected by
the direction which it is sought to have varied

Proceedings

- 11. A warrant authorising a constable to assist in the exercise of certain powers to search for children and inspect premises (section 102 of the 1989 Act)
- 12. An enforcement order (section 11J of the 1989 Act); a financial compensation order (section 11O of the 1989 Act)
- 13. An order revoking or amending an enforcement order (Schedule A1, paragraphs 4 to 7 of the 1989 Act) (rule 12.33 makes provision regarding applications under Schedule A1, paragraph 5 of the 1989 Act); an order following a breach of an enforcement order (Schedule A1, paragraph 9 of the 1989 Act)
- 14. A declaration under rule 12.71 as to the existence, or extent, of parental responsibility under Article 16 of the 1996 Hague Convention

Persons to whom notice is to be given

- The person referred to in section 102(1) of the 1989 Act; and any person preventing or likely to prevent such a person from exercising powers under enactments mentioned in subsection (6) of that section
 - Any officer of the Service or Welsh family proceedings officer who is monitoring compliance with a contact order (in accordance with section 11H(2) of the 1989 Act)
 - Any officer of the Service or Welsh family proceedings officer who is monitoring compliance with the enforcement order (in accordance with section 11M(1) of the 1989 Act); the responsible officer (as defined in section 197 of the Criminal Justice Act 2003, as modified by Schedule A1 to the 1989 Act)
 - A person who the applicant believes is a parent of the child
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