

# CHANGE OF SOLICITOR

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### 26.1 Solicitor acting for a party

Where the address for service of a party is the business address of that party's solicitor, the solicitor will be considered to be acting for that party until the provisions of this Part have been complied with.

(Part 6 contains provisions about the address for service.)

### 26.2 Change of solicitor – duty to give notice

- (1) This rule applies where –
  - (a) a party for whom a solicitor is acting wants to change solicitor;
  - (b) a party, after having conducted the application in person, appoints a solicitor to act for that party (except where the solicitor is appointed only to act as an advocate for a hearing); or
  - (c) a party, after having conducted the application by a solicitor, intends to act in person.
- (2) Where this rule applies, the party or the party's solicitor (where one is acting) must –
  - (a) serve notice of the change on –
    - (i) every other party; and
    - (ii) where paragraph (1)(a) or (c) applies, the former solicitor; and
  - (b) file notice of the change.
- (3) Except where a serial number has been assigned under rule 14.2 or the name or address of a party is not being revealed in accordance with rule 29.1, the notice must state the party's new address for service.
- (4) The notice filed at court must state that notice has been served as required by paragraph (2)(a) or, where rule 2.4 applies, in accordance with the court's directions given under that rule.
- (5) Subject to paragraph (6), where a party has changed solicitor or intends to act in person, the former solicitor will be considered to be the party's solicitor unless and until –
  - (a) notice is filed and served in accordance with paragraph (2)(a) or, where rule 2.4 applies, in accordance with the court's directions given under that rule; or
  - (b) the court makes an order under rule 26.3 and the order is served as required by paragraph (3) of that rule.
- (6) Where the certificate of a LSC funded client or an assisted person (in this rule 'C') is revoked or discharged –

- (a) the solicitor who acted for C will cease to be the solicitor acting in the case as soon as the retainer is determined under regulation 4 of the Community Legal Service (Costs) Regulations 2000<sup>1</sup>; and
  - (b) if C wishes to continue –
    - (i) where C appoints a solicitor to act on C's behalf, paragraph (2) will apply as if C had previously conducted the application in person; and
    - (ii) where C wants to act in person, C must give an address for service, in accordance with rule 6.26, unless the court directs otherwise.
- (7)** In this rule –  
 'assisted person' means an assisted person within the statutory provisions relating to legal aid;  
 'certificate' means a certificate issued under the Funding Code (approved under section 9 of the Access to Justice Act 1999<sup>2</sup>); and  
 'LSC funded client' means an individual who receives services funded by the Legal Services Commission as part of the Community Legal Service within the meaning of Part 1 of the Access to Justice Act 1999.

### **26.3 Order that a solicitor has ceased to act**

- (1)** A solicitor may apply for an order declaring that that solicitor has ceased to be the solicitor acting for –
- (a) a party; or
  - (b) a children's guardian.
- (2)** Where an application is made under this rule –
- (a) notice of the application must be given to the party, or children's guardian, for whom the solicitor is acting, unless the court directs otherwise; and
  - (b) the application must be supported by evidence.
- (3)** Where the court makes an order declaring that a solicitor has ceased to act, a court officer will serve a copy of the order on –
- (a) every party to the proceedings; and
  - (b) where applicable, a children's guardian.

### **26.4 Removal of solicitor who has ceased to act on application of another party**

- (1)** Where –
- (a) a solicitor who has acted for a party –
    - (i) has died;
    - (ii) has become bankrupt;
    - (iii) has ceased to practise; or
    - (iv) cannot be found; and
  - (b) the party has not given notice of a change of solicitor or notice of intention to act in person as required by rule 26.2(2),
- any other party may apply for an order declaring that the solicitor has ceased to be the solicitor acting for the other party in the case.
- (2)** Where an application is made under this rule, notice of the application must be given to the party to whose solicitor the application relates unless the court directs otherwise.

<sup>1</sup> S.I. 2000/441.

<sup>2</sup> Section 9 was amended by article 8 of and paragraph 4(a) of the Schedule to the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429) and section 149(1) and (4) of the Coroners and Justice Act 2009 (c.25).

- (3) Where the court makes an order made under this rule, a court officer will serve a copy of the order on every other party to the proceedings.

