

PRACTICE DIRECTION UPDATE No. 7 of 2024

The amendments to existing Practice Directions, and the new Practice Directions, supplementing the Family Procedure Rules 2010 are made by the President of the Family Division under the powers delegated to him by the Lady Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and are approved by Lord Ponsonby, Parliamentary Under-Secretary of State, Ministry of Justice.

The provisions in this Practice Direction Update come into force as follows:

Provision	Coming into force date
New Practice Direction 12R	On the dates stated at paragraph 1.3 of Practice Direction 12R
New Practice Direction 14G	On the dates stated at paragraph 1.2 of Practice Direction 14G
Amendment to Practice Direction 24A	On the day after the date on which this Practice Direction Update is signed by the Minister
Amendments to Practice Direction 27B	On the date stated at paragraph 1.3 of Practice Direction 12R, or at paragraph 1.2 of Practice Direction 14G, as applicable to the case in question.
Amendments to Practice Direction 36N	On the day after the date on which this Practice Direction Update is signed by the Minister
Amendments to Practice Direction 36Z and to the annexed Practice Direction 12B (Pilot)	On the day after the date on which this Practice Direction Update is signed by the Minister, subject to the savings provision below
Amendment to Practice Direction 36ZA	On the day after the date on which this Practice Direction Update is signed by the Minister
Amendment to Practice Direction 36ZE	On the day after the date on which this Practice Direction Update is signed by the Minister
New Practice Direction 41H	1st January 2025

Signed:

_____ Date: _____

Sir Andrew McFarlane, The President of the Family Division

Signed:

_____ Date: _____

Lord Ponsonby, Parliamentary Under-Secretary of State, Ministry of Justice

**NEW PRACTICE DIRECTION 12R – THE COURT GIVING PERMISSION TO
COMMUNICATE INFORMATION FROM PROCEEDINGS TO WHICH PART 12
FPR APPLIES**

(1) After Practice Direction 12Q insert new Practice Direction 12R as set out in the Annex 1 to this Practice Direction Update.

**PRACTICE DIRECTION 14G – THE COURT GIVING PERMISSION TO
COMMUNICATE INFORMATION FROM CERTAIN PROCEEDINGS TO WHICH
PART 14 FPR APPLIES**

(1) After Practice Direction 14F insert new Practice Direction 14G as set out in Annex 2 to this Practice Direction Update.

PRACTICE DIRECTION 24A – WITNESSES AND DEPOSITIONS GENERALLY

(1) .For paragraph 5.4 substitute-

“5.4 The above documents should be filed with the Foreign Process Section of the Central Office of the High Court in the Royal Courts of Justice; email foreignprocess.rcj@justice.gov.uk.”.

**PRACTICE DIRECTION 27B – ATTENDANCE OF MEDIA REPRESENTATIVES
OR DULY AUTHORISED LAWYERS AT HEARINGS IN FAMILY PROCEEDINGS**

(1) For the heading to paragraph 2.1 substitute-

“**Scope of the rule**”.

(2) After paragraph 2.1 insert-

“2.1A Rule 27.11(1) provides that the rule about attendance does not apply to any proceedings identified in a practice direction as being excepted from the rule. By virtue of that rule and this practice direction, non-lawyer reviews (“NLRs”) held in a Family Drug and Alcohol Court (“FDAC”) are excepted from the rule unless-

(a) the media representative or duly authorised lawyer has previously attended a lawyer-attended hearing in the same proceedings; and

(b) the court has specifically directed that that media representative or duly authorised lawyer may attend the NLR, having considered all of the circumstances including reasons for such attendance provided by the media representative or duly authorised lawyer.”.

(3) After paragraph 2.4 insert-

“2.4A Practice Direction 12R and Practice Direction 14G make provision in relation to the making of transparency orders, detailing what may or may not be published from the proceedings to the public at large, or a section of the public, when a media representative or duly accredited lawyer attends a hearing as provided for in rule 27.11.”.

(4) In paragraph 5A.4 for “using Form FP300 (Request by educational charity to attend family proceedings for authorisation by the President of the Family Division)” substitute “on the appropriate form”.

(5) After paragraph 5A.4 insert-

“Identifying cases to attend

5B.1 The public court list will contain a series of codes for public law proceedings to which Practice Direction 12R and Practice Direction 14G apply. The codes correspond to a ‘code breaker’ which lists the issues involved in the case. The issues will be identified by the gatekeeping judge or legal adviser, who will make an order as part of gatekeeping that the case appears on the list in a certain way. The code breaker will be available on CourtServe and on the Transparency Implementation Group website.

Prior notice of intention to attend

5C.1 Although a media representative or duly authorised lawyer may attend a hearing without giving notice to the court or the parties, they may inform the court and (if known) the parties of their plans to attend and report on a particular hearing. This can be done by emailing the general family inbox of the court centre or telephoning the court.

Methods of attendance

5D.1 Hearings may be attended in person, remotely, or a hybrid of the two. In general, the method of attendance of the media representative or duly authorised lawyer should match that of the hearing. However, in some cases, it may be possible for a media representative or duly authorised lawyer to attend a hearing remotely where the other parties are attending in person.

5D.2 In considering whether to facilitate remote attendance of an attended hearing by a media representative or duly authorised lawyer, the court should specifically consider section 85A of the Courts Act 2003, the Remote Observation and Recording (Courts and Tribunals) Regulations 2022 (SI 2022/705), and the Practice Guidance (Open Justice: Remote Observation of Hearings) [2022] 1 WLR 3538. In that guidance, the Lord Chief Justice and Master of the Rolls said:

“20. Remote observation should be allowed if and to the extent it is in the interests of justice; it should not be allowed to jeopardise the administration of justice in the case before the court. The primary duty of any court is to administer justice in the case before it. In some circumstances, remote observation could jeopardise that aim.

21. Issues about remote observation should not undermine the court’s ability to meet the needs of other cases. Decision-makers are required to satisfy themselves that giving effect to a direction would not unreasonably burden the court or its staff. In some cases the parties may provide the means of remote access. Otherwise, the facilities and personnel will be provided by HMCTS or another public sector body. Provision varies. Most salaried judicial office holders will know very well what facilities and personnel are available to them. Others may be reliant on information from those responsible for their court. The court must bear in mind the need to allocate its scarce resources in an appropriate way between the cases that come before it. Open justice has been and still can be achieved without remote access.”.

5D.3 Media representatives and duly authorised lawyers should not expect additional provision to be made to enable their attendance at a hearing unless by prior agreement, and not if requests are made on the day of a hearing itself.

5D.4 Media representatives and duly authorised lawyers should attend a hearing at or before the listed start time of the hearing if possible. If they arrive once the hearing is underway, this may be disruptive, and may be a reason for the judge to refuse or defer a decision about reporting (see Practice Directions 12R and 14G).”.

PRACTICE DIRECTION 36N - PILOT SCHEME: PROCEDURE FOR ONLINE FILING AND PROGRESSION OF CERTAIN APPLICATIONS FOR OR IN RELATION TO A FINANCIAL REMEDY

- (1) In paragraph 8.2, in the substituted paragraph 6 of Practice Direction 3A-
 - (a) in sub-paragraph (a) after “number;” insert “or”;
 - (b) in sub-paragraph (b) for “applies;” substitute “applies.”; and
 - (c) omit sub-paragraph (c).
- (2) In paragraph 8.2 for the inserted paragraph 6A of Practice Direction 3A substitute-

“6A. An applicant who provides confirmation or makes a claim in accordance with paragraph 6(a) or (b) above must provide any supporting evidence with their application (but that evidence does not need to be served on other parties).”.
- (3) Omit paragraph 8.5.

**PRACTICE DIRECTION 36Z – PILOT SCHEME: PRIVATE LAW REFORM:
INVESTIGATIVE APPROACH**

**AND THE ANNEXED PRACTICE DIRECTION 12B (PILOT) – PRIVATE LAW REFORM:
INVESTIGATIVE APPROACH**

(1) Savings Provision

(a) The amendments made by paragraphs (2)(c) and (d) and (3)(a) to (e) of this Practice Direction Update to Practice Direction 36Z and the annexed Practice Direction 12B (Pilot) do not apply to any case where-

(i) proceedings to which Practice Direction 36Z applies were commenced before the relevant day; and

(ii) a Review stage of the pilot process provided for in Practice Direction 12B (Pilot) began before the relevant day.

(b) In a case to which sub-paragraph (a) above applies, the provisions of Practice Direction 36Z and the annexed Practice Direction 12B (Pilot) as they were in force immediately before the relevant day will continue to apply until the Review stage has been completed.

(c) In sub-paragraphs (a) and (b) above, “the relevant day” means the day after the date on which this Practice Direction Update was signed by the Minister.

(2) In Practice Direction 36Z-

(a) in paragraph 1.3-

(i) in sub-paragraph (b) for “or 1.4B” substitute “, 1.4B or 1.4C”; and

(ii) in sub-paragraph (c)-

(aa) in paragraph (i) for “28 February 2025” substitute “31 March 2026”;

(bb) in paragraph (ii) for “29 April 2025” substitute “31 March 2026”;

(cc) in paragraph (iii) for “28 May 2025” substitute “31 March 2026”;
and

(dd) after paragraph (iii) insert-

“(iv) an application started in a location of the family court specified in paragraph 1.4C, the application is filed in the period commencing 3 March 2025 and ending at the end of 31 March 2026.”;

(b) after paragraph 1.4B insert-

“1.4C The locations of the family court referred to in paragraph 1.3(b) and (c)(iv) are-

(a) Swansea;

(b) Port Talbot;

- (c) Llanelli;
 - (d) Haverfordwest;
 - (e) Aberystwyth;
 - (f) Camarthen.”;
 - (c) in paragraph 2.1, omit the final sentence; and
 - (d) in paragraph 5.2 of Practice Direction 36Z (modifications of Practice Direction 12J) omit sub-paragraph (x).
- (3) In Practice Direction 12B (Pilot) annexed to Practice Direction 36Z-
- (a) in paragraph 11.1 omit “Stage 3: Review”;
 - (b) in paragraph 15.2-
 - (i) in sub-paragraph (b) after “12Q);” insert “and”; and
 - (ii) omit sub-paragraph (c);
 - (c) after paragraph 15.2 omit the heading “**Stage 3: Review**”;
 - (d) omit paragraphs 16.1, 16.2 and 16.3; and
 - (e) in paragraph 19.3 omit the final sentence.

PRACTICE DIRECTION 36ZA – PILOT SCHEME: PROCEDURE FOR NOTIFICATION TO THE POLICE BY EMAIL OF CERTAIN ORDERS MADE UNDER PART 4 OF THE FAMILY LAW ACT 1996

- (1) In paragraph 1.3(c) for “2025” substitute “2026”.

PRACTICE DIRECTION 36ZE – PILOT PROVISION: TEMPORARY MODIFICATION OF PRACTICE DIRECTIONS 2C, 5B, 12A AND 12B

- (1) In paragraph 1.2(b) for “2025” substitute “2027”.

NEW PRACTICE DIRECTION 41H – PROCEEDING BY ELECTRONIC MEANS: PROCEDURE FOR ONLINE FILING AND PROGRESSION OF CERTAIN APPLICATIONS FOR OR IN RELATION TO A FINANCIAL REMEDY

- (1) After Practice Direction 41G insert new Practice Direction 41H as set out in Annex 3 to this Practice Direction Update.
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ANNEX 1: NEW PRACTICE DIRECTION 12R TO BE INSERTED AFTER PRACTICE DIRECTION 12Q

PRACTICE DIRECTION 12R – THE COURT GIVING PERMISSION TO COMMUNICATE INFORMATION FROM PROCEEDINGS TO WHICH PART 12 FPR APPLIES

This Practice Direction supplements rule 12.73A FPR.

Scope

1.1 This Practice Direction applies where-

(a) a Reporter attends a court hearing in accordance with rule 27.11 FPR and Practice Direction 27B; and

(b) that hearing is in proceedings of a type referred to in paragraph 1.2.

1.2 The types of proceedings are-

(a) all proceedings for orders in public law proceedings and private law proceedings, and proceedings to discharge, vary or enforce existing orders in such proceedings;

(b) all proceedings under the inherent jurisdiction of the High Court, including to authorise the deprivation of a child's liberty

(c) all proceedings to which Chapter 6 of Part 12 FPR applies (proceedings under the 1980 Hague Convention, the European Convention and the 1996 Hague Convention).

1.3 This Practice Direction comes into force -

(a) on 27th January 2025 in all locations of the family court in which, immediately prior to that date, the pilot scheme referred to in the Reporting Pilot Guidance from the President of the Family Division dated August 2024¹ (and in predecessor Guidance) was operating; and

(b) in all locations of the family court not within sub-paragraph (a) above, and in the Family Division of the High Court, as follows-

(i) on 27th January 2025 in relation to public law proceedings other than those heard by lay justices;

(ii) on 1st May 2025 in relation to-

(aa) private law proceedings; and

(bb) proceedings referred to in paragraph 1.2(b) and (c)

other than those heard by lay justices; and

¹ See <https://www.judiciary.uk/wp-content/uploads/2024/08/Reporting-Pilot-Guidance-2024.pdf>

(iii) on 29th September 2025 in relation to any proceedings referred to in paragraph 1.2 heard by lay justices.

1.4 This Practice Direction applies from the relevant date specified in paragraph 1.3 to the relevant types of proceedings falling within paragraph 1.1 whether started before, or on or after, that date.

Interpretation

2.1 In this Practice Direction-

“Reporter” means-

(a) a duly accredited representative of news gathering and reporting organisations, within the meaning in rule 27.11 FPR and Practice Direction 27B;

(b) a duly authorised lawyer attending for journalistic, research or public legal education purposes, within the meaning in rule 27.11 FPR and Practice Direction 27B; or

(c) a media representative who is unable to demonstrate accreditation so as to be able to attend a hearing by virtue of rule 27.11(2)(f) but who the court has permitted to attend a hearing under rule 27.11(2)(g) (paragraph 4.3 of Practice Direction 27B refers);

“Transparency Order” means an order-

(a) setting out-

(i) what information from court proceedings referred to in paragraph 1.2 may be communicated;

(ii) who may communicate that information;

(iii) to whom that information may be communicated (which may include to the public at large or a section of it),

meaning that any such communication will not amount to a contempt of court; and

(b) setting out what information from court proceedings referred to in paragraph 1.2 may not be communicated, meaning that any communication of that information could amount to a contempt of court.

Aims and principles

3.1 Where paragraph 1.1 applies, the aim of this Practice Direction is to support Reporters being able to report on what they see and hear in court in accordance with the terms of a Transparency Order (“the transparency principle”).

3.2 Through the means of a Transparency Order, the restrictions on publication contained within section 12 of the Administration of Justice Act 1960 are varied. No contempt of court will be committed so long as the terms of the Transparency Order are complied with.

3.3 Any reporting must be subject to the principles of protection of the anonymity of any children involved in the proceedings, unless the court orders otherwise. In particular, it

should be noted that section 97 of the 1989 Act protects the anonymity of the child for the duration of the proceedings, and that a Transparency Order may extend that protection for a further period.

Transparency Order: procedure

4.1 Where this Practice Direction applies (see paragraph 1.1)-

(a) issues of transparency should be considered and addressed at the outset of the hearing, if possible;

(b) the court must consider whether to make a Transparency Order, and in what terms; and

(c) if the court decides that it should not make a Transparency Order, the court must provide reasons for that decision.

4.2 Parties or their legal representatives must consider the issue of transparency prior to a hearing. Transparency should form part of the agenda for any advocates' meeting or pre-hearing discussion. Parties should be aware that requests for adjournments on the basis that the parties or their legal representatives failed to consider this issue prior to a hearing may not be granted.

4.3 Parties or their legal representatives are expected to be prepared to address the court on whether a Transparency Order should be made, and to what extent, at the start of a hearing where a Reporter attends.

4.4 For each hearing attended by a Reporter, a court order must record-

(a) the name and contact details of the Reporter who attended,

(b) whether the Reporter requested the making of a Transparency Order; and

(c) that the Reporter has been given a copy of any Transparency Order made.

4.5 The court may at any time make, vary or discharge a Transparency Order. This may be-

(a) on application by a party, a legal representative or a Reporter; or

(b) of the court's own motion.

4.6 Any requests for documents (see section 6 of this Practice Direction) made by a Reporter must be made at or before a hearing that the Reporter is attending.

4.7 Any requests for copy documents must be made to, and complied with, by the party who, or whose legal representative, drafted the document in question.

4.8 Any documents must be provided to the Reporter by electronic means (for example, email) and not in hard copy.

4.9 The copy documents must be provided to the Reporter-

(a) at a hearing that the Reporter is attending; or

(b) within a reasonable time after such a hearing.

4.10 A Reporter must-

(a) offer an email address for digital transmission of documents by legal representatives or litigants in person, which email address must be for a paid for (as opposed to free) account which is properly maintained for compliance with data protection requirements applicable in England and Wales; and

(b) be prepared to provide information about how the data are to be handled pursuant to data protection requirements applicable in England and Wales, upon request from the court, or any party, and assurances that the documents provided will be kept confidential.

4.11 Where any document referred to above quotes from a document which the Reporter would not automatically be entitled to see (such as source evidence), the passage quoting may not be reproduced or reported without permission of the court.

4.12 If a document is referred to during a hearing, that does not entitle the Reporter to see that document in its entirety, although an application may be made at the hearing for access to the document in question.

4.13 If a Reporter wishes to see any other document not permitted to be disclosed by the Transparency Order, they must apply to the court for permission. Such other documents may not be disclosed to a Reporter without that permission, even if the parties consent to its disclosure. Likewise, a different Reporter may not view or access documents from a hearing where another Reporter has attended and obtained documents for themselves.

4.14 The court may permit disclosure to a Reporter at the outset of a hearing to assist the Reporter to understand and follow the proceedings, even though reporting of the contents of the document may be restricted.

Transparency Order: contents

5.1 A template for a Transparency Order is available on the judicial website and within the compendium of standard family orders. The court should amend the template as it considers appropriate on the facts of a given case.

5.2 The template Transparency Order-

(a) states that it remains in place until every child to whom the proceedings relate reaches the age of 18;

(b) provides that, in any reporting about the proceedings, the following must not be reported to the public at large, or a section of the public, without the express permission of the court-

(i) the name or date of birth of any subject child in the case;

(ii) the name of any parent or family member who is a party or who is mentioned in the case, or whose name may lead to the child(ren) being identified;

(iii) the name of any person who is a party to, or intervening in, the proceedings;

- (iv) the address of any child or family member;
- (v) the name or address of any foster carer;
- (vi) the school, hospital, placement name or address, or any identifying features of a school, of the child;
- (vii) photographs or images of the child, their parents, carer or any other identifying person, or any of the locations specified above in conjunction with other information relating to the proceedings;
- (viii) the names of any medical professional who is or has been treating any of the children or family member;
- (ix) in cases involving alleged sexual abuse, the details of such alleged abuse;
- (x) for the purposes of section 97(2) of the 1989 Act, any other information likely to identify the child as a child who is, or has been, the subject of proceedings to which that section applies.

5.3 The template Transparency Order provides that following bodies, agencies or professionals may be named in any reporting of the proceedings-

- (a) a local authority/authorities involved in the proceedings;
- (b) the director and assistant director of Children's Services within the any local authority involved in the proceedings (but no other person from the local authority, including the social worker, without express permission of the court);
- (c) Cafcass, Cafcass Cymru or the National Youth Advocacy Service (that is, as bodies, but not the name of the children's guardian or reporting officer without express permission of the court);
- (d) any independent social workers appointed by the court pursuant to Part 25 FPR (but not independent social workers instructed by the local authority only and taking the place of the social worker in the preparation of assessments or work with the child);
- (e) any NHS Trust involved in the proceedings;
- (f) any court appointed experts (but not treating clinicians or medical professionals);
- (g) a party's legal representative;
- (h) the judges (which, for the avoidance of doubt, includes any lay justice) involved in the proceedings;
- (i) the National Society for the Prevention of Cruelty to Children (NSPCC), if involved in the proceedings;
- (j) anyone else named in a published judgment.

5.4 The template Transparency Order does not prevent publication by a parent of information that they would ordinarily be permitted to publish, for example information concerning their child, if it does not relate to or refer to the proceedings, the child's involvement in those proceedings or the evidence concerning that child within the case.

5.5 The template Transparency Order permits parties to discuss the proceedings with a Reporter and permits a Reporter to quote parties in their reporting, without this being a contempt of court.

5.6 The template Transparency Order does not permit the parties to themselves publish information from the proceedings where this would otherwise amount to contempt of court (including by virtue of section 12 Administration of Justice Act 1960). This includes re-publishing any media articles or blogs written about the case under the pilot, where accompanied by comment that may identify the child concerned.

5.7 The template Transparency Order contains provision which retrospectively permits parties and their legal representatives to have discussions inviting Reporters to attend a hearing. However, no permission is granted for Reporters to report such discussions or to see any documents until a Transparency Order is made.

5.8 The template Transparency Order provides that it applies to Reporters that attend a hearing, and to any further reporting of the proceedings.

Transparency Orders: documents and data

6.1 A Transparency Order must provide that a Reporter attending any hearing must be given a copy of the Transparency Order.

6.2 The template Transparency Order provides that, on request, a Reporter is entitled to be provided with copies of, see, and quote from-

(a) the following documents drafted by a legal representative, or by a litigant in person: case outlines, summaries, position statements (including skeleton arguments), threshold documents, and chronologies;

(b) any indices from the court bundle (see Practice Direction 27A).

Transparency orders: considerations for the court

7.1 This section sets out matters the court may wish to take into account when considering whether to make a Transparency Order and, if so, what the terms of such an order should be.

7.2 As noted in paragraph 5.1, there is a template form of Transparency Order, but the court may modify the terms of the template Transparency Order as appropriate on the facts of the case.

7.3 The court retains a discretion to direct that there should be no reporting of the case.

7.4 The court may depart from the transparency principle in any case. In deciding whether to restrict reporting, the court should consider the rights of the family and parties to a fair trial under Article 6 the European Convention on Human Rights ("ECHR"), to a private and family life under Article 8 ECHR, and of the press, parties and public under Article 10 ECHR. The court should balance these rights in assessing whether reporting is appropriate.

7.5 The facts that-

(a) Reporters are aware of the existence and terms of this Practice Direction and know in general terms what the terms of a Transparency Order are likely to involve; and

(b) Reporters may if they wish attend such hearings and make representations about the terms of any individual order,

may be considered by the court, in combination, sufficient to meet the notice requirements of s12(2) Human Rights Act 1998, and prior notice of the court's intention making of making a Transparency Order is therefore not required.

7.6 Where the court makes a Transparency Order, the court retains a discretion to later vary or discharge the Transparency Order or to direct that there should be no (further) reporting of the case. This discretion may be exercised of the court's own motion or on application by a party or a Reporter.

7.7 The Court may also determine that there should be no reporting, or restricted or delayed reporting of all, or part, of the proceedings (see the paragraphs above relating to the content of a Transparency Order). The Court may also consider whether reporting should be restricted for a certain period or up to an event, for example a criminal trial.

7.8 Where there are parallel criminal proceedings, and a party or the police seek to postpone reporting, the court will have due regard to the principles set out in caselaw.

7.9 Care should be exercised in respect of authorising interviews by a Reporter with a party to proceedings where a party has a vulnerability, or is a protected party.

7.10 Whether a Transparency Order is made in the template form or in amended form, the Transparency Order must be specific, so those to whom it applies know exactly what it permits. This gives everybody clarity, and ensures that the court will be able to act on any alleged contempt.

7.11 In a complex case with a number of parties or children, the Court may consider adding a schedule to the Transparency Order to include a form of anonymisation that may be permitted (e.g. Family A, Child BB etc).

Cases that require careful consideration

7.12 When deciding whether to make, vary or discharge a Transparency Order the following categories of case will require careful consideration of the various competing rights in the case-

(a) cases where matters relevant to the case are subject to criminal charges, active investigation, or proceedings, where reporting may cause prejudice to those proceedings;

(b) applications that are made without notice, where reporting and or/publication of the hearing or facts would cause prejudice to the applicant;

(c) cases where it is particularly difficult to achieve anonymity for the child;

(d) cases involving protected parties, and in particular cases where the Official Solicitor acts as a litigation friend;

(e) cases in the Family Drug and Alcohol Court (FDAC) where the appointment is a hearing within the meaning of rule 27.11 FPR (see also paragraph 2.1A of Practice Direction 27B).

7.13 Where a Reporter wishes to report on a without notice application, the court may postpone a decision on permission to report, or making a Transparency Order, until a hearing where the parties are on notice.

ANNEX 2: NEW PRACTICE DIRECTION 14G TO BE INSERTED AFTER PRACTICE DIRECTION 14F

PRACTICE DIRECTION 14G: THE COURT GIVING PERMISSION TO COMMUNICATE INFORMATION FROM CERTAIN PROCEEDINGS TO WHICH PART 14 FPR APPLIES

This Practice Direction supplements rule 14.14A FPR.

Scope

1.1 This Practice Direction applies where-

- (a) a Reporter attends a court hearing in accordance with rule 27.11 FPR and Practice Direction 27B; and
- (b) that hearing is in placement proceedings where the application for a placement order is made within proceedings for a care order, up to the point at which any placement order is made or the application for a placement order or otherwise is concluded.

1.2 This Practice Direction comes into force -

- (a) on 27th January 2025 in all locations of the family court in which, immediately prior to that date, the pilot scheme referred to in the Reporting Pilot Guidance from the President of the Family Division dated August 2024² (and in predecessor Guidance) was operating; and
- (b) in all locations of the family court not within sub-paragraph (a) above, and in the Family Division of the High Court, as follows-
 - (i) on 27th January 2025, except where the proceedings are heard by lay justices in the family court; and
 - (ii) on 29th September 2025 where the proceedings are heard by lay justices in the family court.

1.3 This Practice Direction applies from the relevant date specified in paragraph 1.2 to relevant proceedings falling within paragraph 1.1 whether started before, or on or after, that date.

Application of Practice Direction 12R

2. Paragraphs 2.1 to paragraph 7.13 of Practice Direction 12R apply in the proceedings to which this Practice Direction applies (see paragraph 1.1).

² See <https://www.judiciary.uk/wp-content/uploads/2024/08/Reporting-Pilot-Guidance-2024.pdf>

**PRACTICE DIRECTION 41H – PROCEEDING BY ELECTRONIC MEANS:
PROCEDURE FOR ONLINE FILING AND PROGRESSION OF CERTAIN
APPLICATIONS FOR OR IN RELATION TO A FINANCIAL REMEDY**

This Practice Direction supplements rule 41.1 FPR (proceeding by electronic means).

Scope and interpretation

1.1 This Practice Direction makes provision to require certain applications for, or in relation to, a financial remedy to be filed and progressed via a HMCTS online application system.

(It should be noted that, while a presumption of death order under the 2004 Act is a form of “civil partnership order” as defined in rule 2.3 FPR, no application for a financial remedy may be made under the 2004 Act in connection with an application for such a presumption of death order.)

1.2 This Practice Direction comes into force on 1st January 2025.

1.3 This Practice Direction applies to applications where all of the following conditions are met:

- (a) subject to the exceptions in paragraph 1.4, the application is-
 - (i) for a financial remedy in connection with an application for a matrimonial order or for a civil partnership order;
 - (ii) a notice of intention to proceed with an application for a financial remedy that was made in an application for a matrimonial order or for a civil partnership order;
 - (iii) for an order under Schedule 1 to the 1989 Act; or
 - (iv) to set aside an order for a financial remedy.
- (b) the application is not for a consent order;
- (c) either –
 - (i) the applicant is legally represented but the respondent is not; or
 - (ii) the applicant and the respondent are legally represented;
- (d) access by the party’s legal representative to the online system for creating, starting or progressing such applications is permitted;
- (e) the application is started in the family court; and

(f) the application is made on or after 1st January 2025.

1.4 The exceptions referred to in paragraph 1.3 are where the application is-

(a) for an order for payment in respect of legal services which is not made at the same time as an application for another form of financial remedy or is not made in proceedings already on the online system for another form of financial remedy; or

(b) to set aside a financial remedy order where the application to set aside relates to an order which was not made as a result of a financial remedy application made and progressed on the online system.

1.5 In this Practice Direction, “the online system” means His Majesty’s Courts and Tribunal Service’s online system to allow for specified stages, or in relation to, in specified financial remedy proceedings to be dealt with online.

Use of the online system

2.1 Subject to paragraphs 2.2 and 2.3, from 1st January 2025, applications to which this Practice Direction applies must be created, started and progressed via the online system.

2.2 Paragraph 2.1 does not apply when the online system is not available for use because of-

(a) planned “down time” for system maintenance or upgrades; or

(b) unplanned “down time” because of, for example, a system failure or power outage or some other unplanned circumstance.

2.3 For the avoidance of doubt-

(a) it should not be assumed that all stages of an application will always be able to be dealt with on the online system or that all legal representatives of parties will have access to the online system. For example, there may be circumstances which require a case to be removed from the online system, such as where an intervenor becomes involved in the proceedings. His Majesty’s Courts and Tribunals Service will indicate via the online system who can access the online system, and which stages in proceedings can be dealt with on the online system, at any point in time;

(b) filing a document via the online system does not mean that service of that document has been effected; and

(c) if a party who was legally represented ceases to be so represented during the course of proceedings (so becomes a litigant in person), that party will not be able to access the online system. His Majesty’s Courts and Tribunals Service can continue to use the online system to store documents and for

case management purposes, but any unrepresented party will need to file documents, and be served with documents (including orders) via the procedure provided for in the FPR, not via the procedure provided for in this Practice Direction

Modification or disapplication of the FPR and Practice Directions

3.1 In cases to which this Practice Direction applies, the FPR and the Practice Directions supporting the FPR will apply in respect of the applicant to cases falling within the Pilot Scheme as modified, or disapplied, by paragraphs 4.1 to 11.2

Modification of Part 2 FPR

4.1 In rule 2.3(1), for the definition of “filing” substitute-

“filing” in relation to supplying a document or information means-

(a) delivering it, by post or otherwise, to the court office; or

(b) where Practice Direction 41H applies, by-

(i) uploading the document to the online system referred to in that Practice Direction; or

(ii) submitting the information via that online system.”.

Modification of Part 3 FPR

5.1 For rule 3.7 substitute-

“3.7 Where Practice Direction 41H applies, the application must include from the prospective applicant –

(a) confirmation that the prospective applicant has attended a MIAM; or

(b) a claim that one of the MIAM exemptions applies.”.

Modification of Part 5 FPR

6.1 For rule 5.1, substitute-

“5.1 Where the Practice Direction 41H applies-

(a) the applicant must complete all sections of the online application; and

(b) the applicant and the respondent must provide all the information, including any additional documents, that the online application system

referred to in that Practice Direction requires, or that the court requires, in a manner-

- (i) specified by the online application system;
- (ii) specified in guidance relating to the online application system; or
- (iii) required by the court.”.

6.2 Omit rule 5.2.

Modification of Part 9 FPR

7.1 After rule 9.9B insert-

“Pilot Scheme cases: filing of documents

9.9C(1) In this rule, “document” means anything in which information of any description is recorded.

(2) Where-

- (a) the Practice Direction 41H applies;
- (b) the court, a rule in this Part or a provision in Practice Direction 9A requires a party to file a document with the court; and
- (c) the court or the online system requires that that document be filed with the court in a specified manner;

the party must comply with that requirement by filing the document in the specified manner.

(See also Practice Direction 9A.) ”.

7.2 In rule 9.17, after paragraph (5) insert-

“(5A) Where the Practice Direction 41H applies and a document has been filed in a manner specified by the online system referred to in that Practice Direction, paragraph (5) does not apply.

(5B) Where paragraph (5A) applies, the document will not be retained on the online system or on the court file following the conclusion of the FDR appointment.”.

7.3 For rule 9.26(1)(a) substitute-

“(a) the applicant must file a draft of the order in the terms sought, which must be signed by both parties; and”.

Modification of Part 29 FPR

8.1 After rule 29.13(1) insert-

“(1A) Where Practice Direction 41H applies, service on a party under paragraph (1) or otherwise may be effected by the court sending the party an email, to the address given for service in accordance with Practice Direction 6A, containing a weblink from which the order may be accessed and downloaded.”.

Modification of Practice Direction 3A

9.1 For paragraph 6 substitute-

“6. Where Practice Direction 41H applies, the application must include from the applicant one of the following-

(a) confirmation that the applicant has attended a MIAM, including the date attended, the name of the authorised family mediator (and/or Family Mediation Service) and their FMC registration number; or

(b) a claim that one of the MIAM exemptions applies.”.

9.2 After paragraph 6 insert-

“6A. An applicant who provides confirmation or makes a claim in accordance with paragraph 6(a) or (b) above must provide any supporting evidence with their application (but that evidence does not need to be served on other parties)..”.

9.3 Omit paragraphs 14 and 15.

9.4 In paragraph 18 for “on the relevant form” substitute “in the relevant section of the online system”.

Modification of Practice Direction 6A

10.1 After paragraph 4.1 insert-

“4.1A Paragraphs 4.2 to 4.6 also apply where-

(a) Practice Direction 41H applies; and

(b) service of a judgment or order by the court is to be effected in accordance with rule 29.13(1A), as inserted by Practice Direction 41H.

4.1B Where paragraph 4.1A applies, references in paragraphs 4.2 to 4.5 to service of a document by email include service of a judgment or order by the court sending by email a weblink from which the judgment or order may be accessed and downloaded.”.

10.2 In paragraph 4.2(b)-

- (a) in paragraph (iii) for “; or” substitute “;”;
- (b) in paragraph (iv) for the full-stop substitute “; or”; and
- (c) after paragraph (iv) insert-

“(v) a legal representative for the party to be served having registered on MyHMCTS (being the online case management tool managed by His Majesty’s Courts and Tribunals Service).”.

10.3 After paragraph 4.6 insert-

“Service by a party where Practice Direction 41H applies

4A.1 Paragraph 4A.2 applies where-

- (a) Practice Direction 41H applies; and
- (b) a party is required to effect service of a document on another party.

4A.2 Where this paragraph applies-

- (a) paragraphs 4.2 to 4.6 apply; and
- (b) service of a document by a party may be effected by-
 - (i) the party filing the document to be served on the online system referred to in Practice Direction 41H; and
 - (ii) the party who filed the document then sending each party to be served an email, to the address given for service in accordance with this Practice Direction 6A, indicating that the documents may be accessed and downloaded from the online system.”.

Modification of Practice Direction 9A

11.1 After paragraph 2.1, insert-

“Application for a financial remedy received via the online system: timing

2A.1 An application for a financial remedy that is submitted via the online system referred to in Practice Direction 41H is lodged with the court on the date and at the time that HMCTS software records the application as received, provided that the application is subsequently issued by the court.

2A.2 A document, other than an application, that is submitted via the online system referred to in Practice Direction 41H is filed with or otherwise received

by the court on the date and at the time that HMCTS software records the document as received.

2A.3 When an application for a financial remedy to which the Pilot Scheme referred to in Practice Direction 41H applies is received via the online system referred to in that Practice Direction, an acknowledgement of receipt will automatically be sent to the email address given as the address for service in the online system. This acknowledgement of receipt does not constitute a notice that the application has been issued.

Application for a financial remedy received via the online system: filing of subsequent documents (etc)

2B.1 Rule 9.9C makes provision in relation to cases to which Practice Direction 41H applies. The term “document” is defined widely in the rule. The reference in rule 9.9C to a “document” includes all statements, evidence, notices and other documents that a party may be required to file in accordance with a direction or order of the court, a rule in Part 9 of the FPR or a provision of this Practice Direction, to include:

rule 9.14 – a financial statement, documents accompanying the financial statement, a statement of issues, chronology, questionnaire, notice of readiness, confirmation of who has been served;

rule 9.15 – further documents to be filed, as directed by the court at the first appointment;

rule 9.16 – documents to be filed, as directed by the court after the first appointment;

rule 9.17(3) – details of offers and proposals;

rule 9.17(9) – evidence directed at the conclusion of an FDR appointment to be filed;

rule 9.18(2)(c)(iii) – certificate of service;

rule 9.19(1), (2) and (3) – financial statement and specified supporting documents;

rule 9.20(3)(a) and (b) – further evidence or documents to be filed, as directed by the court at the first hearing;

rule 9.28(1) – an open statement which sets out concise details, including the amounts involved, of the orders which the applicant proposes to ask the court to make;

paragraph 4.1 of this Practice Direction – a summary of the case agreed between the parties, a schedule of assets agreed between the parties and

details of any directions that they seek, including, where appropriate, the name of any expert they wish to be appointed; and

paragraph 5.2 of Practice Direction 9A— documents or information filed by way of reply to a questionnaire, where the court has directed that these be filed with the court.”.

11.2 For paragraph 7.1 substitute-

“7.1 Rule 9.26(1)(a) is considered to be properly complied with if the draft order is signed by solicitors on record as acting for a party. However, where the consent order applied for contains undertakings, it should be signed by the party giving the undertakings as well as by that party’s solicitor.

(Provision relating to the enforcement of undertakings is contained in Practice Direction 33A supplementing Part 33 of the FPR.)”.
