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STATUTORY INSTRUMENTS

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**2010 No. 2955**

**The Family Procedure Rules 2010**

**PART 12**

**PROCEEDINGS RELATING TO CHILDREN EXCEPT PARENTAL  
ORDER PROCEEDINGS AND PROCEEDINGS FOR APPLICATIONS  
IN ADOPTION, PLACEMENT AND RELATED PROCEEDINGS**

**CHAPTER 2**

**GENERAL RULES**

**Who the parties are**

**12.3.**—(1) In relation to the proceedings set out in column 1 of the following table, column 2 sets out who may make the application and column 3 sets out who the respondents to those proceedings will be.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
A parental responsibility order (section 4(1)(c), 4ZA(1)(c), or section 4A(1)(b) of the 1989 Act).	The child's father; the step parent; or the child's parent (being a woman who is a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and who is not a person to whom section 1(3) of the Family Law Reform Act 1987(1) applies) (sections 4(1)(c), 4ZA(1)(c) and 4A(1)(b) of the 1989 Act).	Every person whom the applicant believes to have parental responsibility for the child;  where the child is the subject of a care order, every person whom the applicant believes to have had parental responsibility immediately prior to the making of the care order;  in the case of an application to extend, vary or discharge an order, the parties to the proceedings leading to the order which it is sought to have extended, varied or discharged;  in the case of specified proceedings, the child.
An order terminating a parental responsibility	Any person who has parental responsibility for the child; or	As above.

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(1) Section 1(3) was inserted by section 56 of and paragraphs 24(1) and (2) of Schedule 6 to the Human Fertilisation and Embryology Act 2008.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
order or agreement (section 4(2A), 4ZA(5) or section 4A(3) of the 1989 Act <sup>(2)</sup> ).	with the court's permission, the child (section 4(3), 4ZA(6) and section 4A(3) of the 1989 Act).	
An order appointing a guardian (section 5(1) of the 1989 Act <sup>(3)</sup> ).	An individual who wishes to be appointed as guardian (section 5(1) of the 1989 Act).	As above.
An order terminating the appointment of a guardian (section 6(7) of the 1989 Act).	Any person who has parental responsibility for the child; or  with the court's permission, the child (section 6(7) of the 1989 Act).	As above.
A section 8 order.	Any person who is entitled to apply for a section 8 order with respect to the child (section 10(4) to (7) of the 1989 Act <sup>(4)</sup> ); or  with the court's permission, any person (section 10(2)(b) of the 1989 Act).	As above.
An enforcement order (section 11J of the 1989 Act <sup>(5)</sup> ).	A person who is, for the purposes of the contact order, a person with whom the child concerned lives or is to live;  any person whose contact with the child concerned is provided for in the contact order;  any individual subject to a condition under section 11(7)(b) of the 1989 Act or a contact activity condition imposed by a contact order; or	The person the applicant alleges has failed to comply with the contact order.

(2) Section 4A(3) was inserted by section 112 of the Adoption and Children Act 2002.

(3) Section 5(1) was amended by section 115(2), and (4)(a)(i) and (ii) of the Adoption and Children Act 2002.

(4) Section 10(4) was amended by section 139(1) of and paragraphs 54, 56(a) and (b) of Schedule 3 to the Adoption and Children Act 2002. Section 10(5) was inserted by section 77 of the Civil Partnership Act 2004. Section 10(5A) was inserted by section 139(1) and paragraphs 54 and 56(c) of Schedule 3 to the Adoption and Children Act 2002. Section 10(5B) was inserted by section 36 of the Children and Young Persons Act 2008. Section 10(7A) was inserted by section 139(1) of and paragraphs 54 and 56(d) of Schedule 3 to the Adoption and Children Act 2002.

(5) Section 11J was inserted by section 4(1) of the Children and Adoption Act 2006 (c.20).

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
	with the court's permission, the child (section 11J(5) of the 1989 Act).	
A financial compensation order (section 11O of the 1989 Act).	<p>Any person who is, for the purposes of the contact order, a person with whom the child concerned lives or is to live;</p> <p>any person whose contact with the child concerned is provided for in the contact order;</p> <p>any individual subject to a condition under section 11(7)(b) of the 1989 Act or a contact activity condition imposed by a contact order; or</p> <p>with the court's permission, the child (section 11O(6) of the 1989 Act).</p>	The person the applicant alleges has failed to comply with the contact order.
An order permitting the child's name to be changed or the removal of the child from the United Kingdom (section 13(1), 14C(3) or 33(7) of the 1989 Act).	Any person (section 13(1), 14C(3), 33(7) of the 1989 Act).	As for a parental responsibility order.
A special guardianship order (section 14A of the 1989 Act).	<p>Any guardian of the child;</p> <p>any individual in whose favour a residence order is in force with respect to the child;</p> <p>any individual listed in subsection (5)(b) or (c) of section 10 (as read with subsection (10) of that section) of the 1989 Act;</p> <p>a local authority foster parent with whom the child has lived for a period of at least one year immediately preceding the application; or</p>	<p>As above, and</p> <p>if a care order is in force with respect to the child, the child.</p>

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
	any person with the court's permission (section 14A(3) of the 1989 Act) (more than one such individual can apply jointly (section 14A(3) and (5) of that Act)).	
Variation or discharge of a special guardianship order (section 14D of the 1989 Act <sup>(6)</sup> ).	<p>The special guardian (or any of them, if there is more than one);</p> <p>any individual in whose favour a residence order is in force with respect to the child;</p> <p>the local authority designated in a care order with respect to the child;</p> <p>any individual within section 14D(1)(d) of the 1989 Act who has parental responsibility for the child;</p> <p>the child, any parent or guardian of the child and any step-parent of the child who has acquired, and has not lost, parental responsibility by virtue of section 4A of that Act with the court's permission; or</p> <p>any individual within section 14D(1)(d) of that Act who immediately before the making of the special guardianship order had, but no longer has, parental responsibility for the child with the court's permission.</p>	As above.
A secure accommodation order (section 25 section of the 1989 Act).	<p>The local authority which is looking after the child; or</p> <p>the Health Authority, Primary Care Trust, National Health Service Trust established under section 25 of the National Health Service Act 2006<sup>(7)</sup> or section 18(1) of the National Health Service (Wales) Act 2006<sup>(8)</sup>, National Health Service Foundation Trust or any local authority providing</p>	As above.

(6) Section 14D was inserted by section 115(1) of the Adoption and Children Act 2002.

(7) 2006 c.4.

(8) 2006 c.42.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
	accommodation for the child (unless the child is looked after by a local authority).	
A care or supervision order (section 31 of the 1989 Act).	Any local authority; the National Society for the Prevention of Cruelty to Children and any of its officers (section 31(1) of the 1989 Act); or any authorised person.	As above.
An order varying directions made with an interim care or interim supervision order (section 38(8)(b) of the 1989 Act).	The parties to proceedings in which directions are given under section 38(6) of the 1989 Act; or any person named in such a direction.	As above.
An order discharging a care order (section 39(1) of the 1989 Act).	Any person who has parental responsibility for the child; the child; or the local authority designated by the order (section 39(1) of the 1989 Act).	As above.
An order varying or discharging an interim care order in so far as it imposes an exclusion requirement (section 39(3A) of the 1989 Act).	A person to whom the exclusion requirement in the interim care order applies who is not entitled to apply for the order to be discharged (section 39(3A) of the 1989 Act).	As above.
An order varying or discharging an interim care order in so far as it confers a power of arrest attached to an exclusion requirement (section 39(3B) of the 1989 Act).	Any person entitled to apply for the discharge of the interim care order in so far as it imposes the exclusion requirement (section 39(3B) of the 1989 Act).	As above.
An order substituting a supervision order	Any person entitled to apply for a care order to be discharged under	As above.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
for a care order (section 39(4) of the 1989 Act).	section 39(1) (section 39(4) of the 1989 Act).	
A child assessment order (section 43(1) of the 1989 Act).	Any local authority;  the National Society for the Prevention of Cruelty to Children and any of its officers; or  any person authorised by order of the Secretary of State to bring the proceedings and any officer of a body who is so authorised (section 43(1) and (13) of the 1989 Act).	As above.
An order varying or discharging a child assessment order (section 43(12) of the 1989 Act).	The applicant for an order that has been made under section 43(1) of the 1989 Act; or  the persons referred to in section 43(11) of the 1989 Act (section 43(12) of that Act).	As above.
An emergency protection order (section 44(1) of the 1989 Act).	Any person (section 44(1) of the 1989 Act).	As for a parental responsibility order.
An order extending the period during which an emergency protection order is to have effect (section 45(4) of the 1989 Act).	Any person who—  has parental responsibility for a child as the result of an emergency protection order; and  is entitled to apply for a care order with respect to the child (section 45(4) of the 1989 Act).	As above.
An order discharging an emergency protection order (section 45(8) of the 1989 Act).	The child;  a parent of the child;  any person who is not a parent of the child but who has parental responsibility for the child; or  any person with whom the child was living before the making of the emergency protection order (section 45(8) of the 1989 Act).	As above.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
An order varying or discharging an emergency protection order in so far as it imposes the exclusion requirement (section 45(8A) of the 1989 Act).	A person to whom the exclusion requirement in the emergency protection order applies who is not entitled to apply for the emergency protection order to be discharged (section 45(8A) of the 1989 Act).	As above.
An order varying or discharging an emergency protection order in so far as it confers a power of arrest attached to an exclusion requirement (section 45(8B) of the 1989 Act).	Any person entitled to apply for the discharge of the emergency protection order in so far as it imposes the exclusion requirement (section 45(8B) of the 1989 Act).	As above.
An emergency protection order by the police (section 46(7) of the 1989 Act).	The officer designated for the purposes of section 46(3)(e) of the 1989 Act (section 46(7) of the 1989 Act).	As above.
A warrant authorising a constable to assist in exercise of certain powers to search for children and inspect premises (section 48 of the 1989 Act).	Any person attempting to exercise powers under an emergency protection order who has been or is likely to be prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned (section 48(9) of the 1989 Act).	As above.
A warrant authorising a constable to assist in exercise of certain powers to search for children and inspect premises (section 102 of the 1989 Act).	Any person attempting to exercise powers under the enactments mentioned in section 102(6) of the 1989 Act who has been or is likely to be prevented from doing so by being refused entry to the premises concerned or refused access to the child concerned (section 102(1) of that Act).	As above.
An order revoking an enforcement	The person subject to the enforcement order.	The person who was the applicant for the enforcement order; and,

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
order (paragraph 4 of Schedule A1 to the 1989 Act).		where the child was a party to the proceedings in which the enforcement order was made, the child.
An order amending an enforcement order (paragraphs 5 to 7 of Schedule A1 to the 1989 Act).	The person subject to the enforcement order.	The person who was the applicant for the enforcement order.  (Rule 12.33 makes provision about applications under paragraph 5 of Schedule A1 to the 1989 Act.)
An order following breach of an enforcement order (paragraph 9 of Schedule A1 to the 1989 Act).	Any person who is, for the purposes of the contact order, the person with whom the child lives or is to live;  any person whose contact with the child concerned is provided for in the contact order;  any individual subject to a condition under section 11(7)(b) of the 1989 Act or a contact activity condition imposed by a contact order; or  with the court's permission, the child (paragraph 9 of Schedule A1 to the 1989 Act).	The person the applicant alleges has failed to comply with the unpaid work requirement imposed by an enforcement order; and  where the child was a party to the proceedings in which the enforcement order was made, the child.
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), to the 1989 Act).	The local authority (Schedule 2, paragraph 19(1), to the 1989 Act).	As for a parental responsibility order.
A contribution order (Schedule 2, paragraph 23(1), to the 1989 Act).	The local authority (Schedule 2, paragraph 23(1), to the 1989 Act).	As above and the contributor.
An order revoking a contribution order (Schedule 2,	The contributor; or  the local authority.	As above.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
paragraph 23(8), to the 1989 Act).		
An order relating to contact with the child in care and any named person (section 34(2) of the 1989 Act) or permitting the local authority to refuse contact (section 34(4) of that Act).	The local authority; or  the child (section 34(2) or 34(4) of the 1989 Act).	As above; and  the person whose contact with the child is the subject of the application.
An order relating to contact with the child in care (section 34(3) of the 1989 Act).	The child's parents;  any guardian or special guardian of the child;  any person who by virtue of section 4A of the 1989 Act has parental responsibility for the child;  a person in whose favour there was a residence order in force with respect to the child immediately before the care order was made;  a person who by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children had care of the child immediately before the care order was made (section 34(3)(a) of the 1989 Act); or  with the court's permission, any person (section 34(3) (b) of that Act).	As above; and  the person whose contact with the child is the subject of the application.
An order varying or discharging an order for contact with a child in care under section 34 (section 34(9) of the 1989 Act).	The local authority;  the child; or  any person named in the order (section 34(9) of the 1989 Act).	As above; and  the person whose contact with the child is the subject of the application.
An education supervision order	Any local authority (section 36(1) of the 1989 Act).	As above; and  the child.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
(section 36 of the 1989 Act).		
An order varying or discharging a supervision order (section 39(2) of the 1989 Act).	Any person who has parental responsibility for the child; the child; or the supervisor (section 39(2) of the 1989 Act).	As above; and the supervisor.
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).	The person with whom the child is living who is not entitled to apply for the order to be discharged (section 39(3) of the 1989 Act).	As above; and the supervisor.
An order varying a direction under section 44(6) of the 1989 Act in an emergency protection order (section 44(9)(b) of that Act).	The parties to the application for the emergency protection order in respect of which it is sought to vary the directions; the children’s guardian; the local authority in whose area the child is ordinarily resident; or any person who is named in the directions.	As above, and the parties to the application for the order in respect of which it is sought to vary the directions; any person who was caring for the child prior to the making of the order; and any person whose contact with the child is affected by the direction which it is sought to have varied.
A recovery order (section 50 of the 1989 Act).	Any person who has parental responsibility for the child by virtue of a care order or an emergency protection order; or where the child is in police protection the officer designated for the purposes of section 46(3)(e) of the 1989 Act (section 50(4) of the 1989 Act).	As above; and the person whom the applicant alleges to have effected or to have been or to be responsible for the taking or keeping of the child.
An order discharging an education supervision order (Schedule 3, paragraph 17(1), to the 1989 Act).	The child concerned; a parent of the child; or the local authority concerned (Schedule 3, paragraph 17(1), to the 1989 Act).	As above; and the local authority concerned; and the child.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
An order extending an education supervision order (Schedule 3, paragraph, 15(2), to the 1989 Act).	The local authority in whose favour the education supervision order was made (Schedule 3, paragraph 15(2), to the 1989 Act).	As above; and the child.
An appeal under paragraph (8) of Schedule 8 to the 1989 Act.	A person aggrieved by the matters listed in paragraph 8(1) of Schedule 8 to the 1989 Act.	The appropriate local authority.
An order for the disclosure of information as to the whereabouts of a child under section 33 of the 1986 Act.	Any person with a legitimate interest in proceedings for an order under Part 1 of the 1986 Act; or a person who has registered an order made elsewhere in the United Kingdom or a specified dependent territory.	Any person alleged to have information as to the whereabouts of the child.
An order authorising the taking charge of and delivery of a child under section 34 of the 1986 Act.	The person to whom the child is to be given up under section 34(1) of the 1986 Act.	As above; and the person who is required to give up the child in accordance with section 34(1) of the 1986 Act.
An order relating to the exercise of the court's inherent jurisdiction (including wardship proceedings).	A local authority (with the court's permission); any person with a genuine interest in or relation to the child; or the child (wardship proceedings only).	The parent or guardian of the child; any other person who has an interest in or relationship to the child; and the child (wardship proceedings only and with the court's permission as described at rule 12.37).
A warrant under section 79 of the 2006 Act authorising any constable to assist Her Majesty's Chief Inspector for Education, Children's Services and Skills in the exercise of powers conferred on him by	Her Majesty's Chief Inspector for Education, Children's Services and Skills.	Any person preventing or likely to prevent Her Majesty's Chief Inspector for Education, Children's Services and Skills from exercising powers conferred on him by section 77 of the 2006 Act.

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
section 77 of the 2006 Act.		
An order in respect of a child under the 1980 Hague Convention.	Any person, institution or body who claims that a child has been removed or retained in breach of rights of custody or claims that there has been a breach of rights of access in relation to the child.	The person alleged to have brought the child into the United Kingdom;  the person with whom the child is alleged to be;  any parent or guardian of the child who is within the United Kingdom and is not otherwise a party;  any person in whose favour a decision relating to custody has been made if that person is not otherwise a party; and  any other person who appears to the court to have sufficient interest in the welfare of the child.
An order concerning the recognition and enforcement of decisions relating to custody under the European Convention.	Any person who has a court order giving that person rights of custody in relation to the child.	As above.
An application for the High Court to request transfer of jurisdiction under Article 15 of the Council Regulation or Article 9 of the 1996 Hague Convention (rule 12.65).	Any person with sufficient interest in the welfare of the child and who would be entitled to make a proposed application in relation to that child, or who intends to seek the permission of the court to make such application if the transfer is agreed.	As directed by the court in accordance with rule 12.65.
An application under rule 12.71 for a declaration as to the existence, or extent, of parental responsibility under Article 16 of the 1996 Convention.	Any interested person including a person who holds, or claims to hold, parental responsibility for the child under the law of another State which subsists in accordance with Article 16 of the 1996 Hague Convention following the child becoming habitually resident in a territorial unit of the United Kingdom.	Every person whom the applicant believes to have parental responsibility for the child;  any person whom the applicant believes to hold parental responsibility for the child under the law of another State which subsists in accordance with Article 16 of the 1996 Hague Convention following the child

<i>Proceedings for</i>	<i>Applicants</i>	<i>Respondents</i>
		<p>becoming habitually resident in a territorial unit of the United Kingdom; and</p> <p>where the child is the subject of a care order, every person whom the applicant believes to have had parental responsibility immediately prior to the making of the care order.</p>
A warning notice.	<p>The person who is, for the purposes of the contact order, the person with whom the child concerned lives or is to live;</p> <p>the person whose contact with the child concerned is provided for in the contact order;</p> <p>any individual subject to a condition under section 11(7)(b) of the 1989 Act or a contact activity condition imposed by the contact order; or</p> <p>with the court’s permission, the child.</p>	<p>Any person who was a party to the proceedings in which the contact order was made.</p> <p>(Rule 12.33 makes provision about applications for warning notices).</p>

(2) The court will direct that a person with parental responsibility be made a party to proceedings where that person requests to be one.

(3) Subject to rule 16.2, the court may at any time direct that—

- (a) any person or body be made a party to proceedings; or
- (b) a party be removed.

(4) If the court makes a direction for the addition or removal of a party under this rule, it may give consequential directions about—

- (a) the service of a copy of the application form or other relevant documents on the new party;
- (b) the management of the proceedings.

(5) In this rule—

“a local authority foster parent” has the meaning assigned to it by section 23(3) of the 1989 Act; and

“care home”, “independent hospital”, “local authority” and “Primary Care Trust” have the meanings assigned to them by section 105 of the 1989 Act.

(Part 16 contains the rules relating to the representation of children.)

#### **Notice of proceedings to person with foreign parental responsibility**

**12.4.—**(1) This rule applies where a child is subject to proceedings to which this Part applies and —

- (a) a person holds or is believed to hold parental responsibility for the child under the law of another State which subsists in accordance with Article 16 of the 1996 Hague Convention following the child becoming habitually resident in a territorial unit of the United Kingdom; and
  - (b) that person is not otherwise required to be joined as a respondent under rule 12.3.
- (2) The applicant shall give notice of the proceedings to any person to whom the applicant believes paragraph (1) applies in any case in which a person whom the applicant believed to have parental responsibility under the 1989 Act would be a respondent to those proceedings in accordance with rule 12.3.
- (3) The applicant and every respondent to the proceedings shall provide such details as they possess as to the identity and whereabouts of any person they believe to hold parental responsibility for the child in accordance with paragraph (1) to the court officer, upon making, or responding to the application as appropriate.
- (4) Where the existence of a person who is believed to have parental responsibility for the child in accordance with paragraph (1) only becomes apparent to a party at a later date during the proceedings, that party must notify the court officer of those details at the earliest opportunity.
- (5) Where a person to whom paragraph (1) applies receives notice of proceedings, that person may apply to the court to be joined as a party using the Part 18 procedure.

### **What the court will do when the application has been issued**

**12.5.** When the proceedings have been issued the court will consider—

- (a) setting a date for—
  - (i) a directions appointment;
  - (ii) in private law proceedings, a First Hearing Dispute Resolution Appointment;
  - (iii) in care and supervision proceedings and in so far as practicable other public law proceedings, the First Appointment; or
  - (iv) the hearing of the application or an application for an interim order,
 and if the court sets a date it will do so in accordance with rule 12.13 and Practice Directions 12A and 12B;
- (b) giving any of the directions listed in rule 12.12 or, where Chapter 6, section 1 applies, rule 12.48; and
- (c) doing anything else which is set out in Practice Directions 12A or 12B or any other practice direction.

(Practice Directions 12A and 12B supplementing this Part set out details relating to the First Hearing Dispute Resolution Appointment and the First Appointment.)

### **Children’s guardian, solicitor and reports under section 7 of the 1989 Act**

**12.6.** As soon as practicable after the issue of proceedings or the transfer of the proceedings to the court, the court will—

- (a) in specified proceedings, appoint a children’s guardian under rule 16.3(1) unless—
  - (i) such an appointment has already been made by the court which made the transfer and is subsisting; or
  - (ii) the court considers that such an appointment is not necessary to safeguard the interests of the child;

- (b) where section 41(3) of the 1989 Act applies, consider whether a solicitor should be appointed to represent the child, and if so, appoint a solicitor accordingly;
- (c) consider whether to ask an officer of the service or a Welsh family proceedings officer for advice relating to the welfare of the child;
- (d) consider whether a report relating to the welfare of the child is required, and if so, request such a report in accordance with section 7 of the 1989 Act.

(Part 16 sets out the rules relating to representation of children.)

### **What a court officer will do**

**12.7.**—(1) As soon as practicable after the issue of proceedings the court officer will return to the applicant the copies of the application together with the forms referred to in Practice Direction 5A.

(2) As soon as practicable after the issue of proceedings or the transfer of proceedings to the court or at any other stage in the proceedings the court officer will—

- (a) give notice of any hearing set by the court to the applicant; and
- (b) do anything else set out in Practice Directions 12A or 12B or any other practice direction.

### **Service of the application**

**12.8.** The applicant will serve—

- (a) the application together with the documents referred to in Practice Direction 12C on the persons referred to and within the time specified in that Practice Direction; and
- (b) notice of any hearing set by the court on the persons referred to in Practice Direction 12C at the same time as serving the application.

### **Request for transfer from magistrates' court to county court or to another magistrates' court**

**12.9.**—(1) In accordance with the Allocation Order, a magistrates' court may order proceedings before the court (or any part of them) to be transferred to another magistrates' court or to a county court.

(2) Where any request to transfer proceedings to another magistrates' court or to a county court is refused, the court officer will send a copy of the written record of the reasons for refusing the transfer to the parties.

### **Procedure following refusal of magistrates' court to order transfer**

**12.10.**—(1) Where a request under rule 12.9 to transfer proceedings to a county court in accordance with the provisions of the Allocation Order is refused, a party to the proceedings may apply to a county court for an order transferring proceedings from the magistrates' court.

(2) Such an application must be made in accordance with Part 18 and the Allocation Order.

### **Transfer of proceedings from one court to another court**

**12.11.** Where proceedings are transferred from one court to another court in accordance with the provisions of the Allocation Order, the court officer from the transferring court will notify the parties of any order transferring the proceedings.

**Directions**

**12.12.**—(1) This rule does not apply to proceedings under Chapter 6 of this Part.

(2) At any stage in the proceedings, the court may give directions about the conduct of the proceedings including—

- (a) the management of the case;
- (b) the timetable for steps to be taken between the giving of directions and the final hearing;
- (c) the joining of a child or other person as a party to the proceedings in accordance with rules 12.3(2) and (3);
- (d) the attendance of the child;
- (e) the appointment of a children’s guardian or of a solicitor under section 41(3) of the 1989 Act;
- (f) the appointment of a litigation friend;
- (g) the service of documents;
- (h) the filing of evidence including experts’ reports; and
- (i) the exercise by an officer of the Service, Welsh family proceedings officer or local authority officer of any duty referred to in rule 16.38(1)

(3) Paragraph (4) applies where—

- (a) an officer of the Service or a Welsh family proceedings officer has filed a report or a risk assessment as a result of exercising a duty referred to in rule 16.38(1)(a); or
- (b) a local authority officer has filed a report as a result of exercising a duty referred to in rule 16.38(1)(b).

(4) The court may—

- (a) give directions setting a date for a hearing at which that report or risk assessment will be considered; and
- (b) direct that the officer who prepared the report or risk assessment attend any such hearing.

(5) The court may exercise the powers in paragraphs (2) and (4) on an application or of its own initiative.

(6) Where the court proposes to exercise its powers of its own initiative the procedure set out in rule 4.3(2) to (6) applies.

(7) Directions of a court which are still in force immediately prior to the transfer of proceedings to another court will continue to apply following the transfer subject to—

- (a) any changes of terminology which are required to apply those directions to the court to which the proceedings are transferred; and
- (b) any variation or revocation of the direction.

(8) The court or court officer will—

- (a) take a note of the giving, variation or revocation of a direction under this rule; and
- (b) as soon as practicable serve a copy of the note on every party.

(Rule 12.48 provides for directions in proceedings under the 1980 Hague Convention and the European Convention.)

**Setting dates for hearings and setting or confirming the timetable and date for the final hearing**

**12.13.**—(1) At the—

- (a) transfer to a court of proceedings;
- (b) postponement or adjournment of any hearing; or
- (c) conclusion of any hearing at which the proceedings are not finally determined,

the court will set a date for the proceedings to come before the court again for the purposes of giving directions or for such other purposes as the court directs.

(2) At any hearing the court may—

- (a) confirm a date for the final hearing or the week within which the final hearing is to begin (where a date or period for the final hearing has already been set);
- (b) set a timetable for the final hearing unless a timetable has already been fixed, or the court considers that it would be inappropriate to do so; or
- (c) set a date for the final hearing or a period within which the final hearing of the application is to take place.

(3) The court officer will notify the parties of—

- (a) the date of a hearing fixed in accordance with paragraph (1);
- (b) the timetable for the final hearing; and
- (c) the date of the final hearing or the period in which it will take place.

(4) Where the date referred to in paragraph (1) is set at the transfer of proceedings, the date will be as soon as possible after the transfer.

(5) The requirement in paragraph (1) to set a date for the proceedings to come before the court again is satisfied by the court setting or confirming a date for the final hearing.

### **Attendance at hearings**

**12.14.**—(1) This rule does not apply to proceedings under Chapter 6 of this Part except for proceedings for a declaration under rule 12.71.

(2) Unless the court directs otherwise and subject to paragraph (3), the persons who must attend a hearing are—

- (a) any party to the proceedings;
- (b) any litigation friend for any party or legal representative instructed to act on that party's behalf; and
- (c) any other person directed by the court or required by Practice Directions 12A or 12B or any other practice direction to attend.

(3) Proceedings or any part of them will take place in the absence of a child who is a party to the proceedings if—

- (a) the court considers it in the interests of the child, having regard to the matters to be discussed or the evidence likely to be given; and
- (b) the child is represented by a children's guardian or solicitor.

(4) When considering the interests of the child under paragraph (3) the court will give—

- (a) the children's guardian;
- (b) the solicitor for the child; and
- (c) the child, if of sufficient understanding,

an opportunity to make representations.

(5) Subject to paragraph (6), where at the time and place appointed for a hearing, the applicant appears but one or more of the respondents do not, the court may proceed with the hearing.

(6) The court will not begin to hear an application in the absence of a respondent unless the court is satisfied that—

- (a) the respondent received reasonable notice of the date of the hearing; or
- (b) the circumstances of the case justify proceeding with the hearing.

(7) Where, at the time and place appointed for a hearing one or more of the respondents appear but the applicant does not, the court may—

- (a) refuse the application; or
- (b) if sufficient evidence has previously been received, proceed in the absence of the applicant.

(8) Where at the time and place appointed for a hearing neither the applicant nor any respondent appears, the court may refuse the application.

(9) Paragraphs (5) to (8) do not apply to a hearing where the court—

- (a) is considering—
  - (i) whether to make a contact activity direction or to attach a contact activity condition to a contact order; or
  - (ii) an application for a financial compensation order, an enforcement order or an order under paragraph 9 of Schedule A1 to the 1989 Act following a breach of an enforcement order; and
- (b) has yet to obtain sufficient evidence from, or in relation to, the person who may be the subject of the direction, condition or order to enable it to determine the matter.

(10) Nothing in this rule affects the provisions of Article 18 of the Council Regulation in cases to which that provision applies.

(The Council Regulation makes provision in Article 18 for the court to stay proceedings where the respondent is habitually resident in another Member State of the European Union and has not been adequately served with the proceedings as required by that provision.)

### **Steps taken by the parties**

**12.15.** If—

- (a) the parties or any children’s guardian agree proposals for the management of the proceedings (including a proposed date for the final hearing or a period within which the final hearing is to take place); and
- (b) the court considers that the proposals are suitable,

it may approve them without a hearing and give directions in the terms proposed.

### **Applications without notice**

**12.16.**—(1) This rule applies to—

- (a) proceedings for a section 8 order;
- (b) emergency proceedings; and
- (c) proceedings relating to the exercise of the court’s inherent jurisdiction (other than an application for the court’s permission to start such proceedings and proceedings for collection, location and passport orders where Chapter 6 applies).

(2) An application in proceedings referred to in paragraph (1) may, in the High Court or a county court, be made without notice in which case the applicant must file the application—

- (a) where the application is made by telephone, the next business day after the making of the application; or

(b) in any other case, at the time when the application is made.

(3) An application in proceedings referred to in paragraph (1)(a) or (b) may, in a magistrates' court, be made with the permission of the court, without notice, in which case the applicant must file the application at the time when the application is made or as directed by the court.

(4) Where—

- (a) a section 8 order;
- (b) an emergency protection order;
- (c) an order for the disclosure of information as to the whereabouts of a child under section 33 of the 1986 Act; or
- (d) an order authorising the taking charge of and delivery of a child under section 34 of the 1986 Act,

is made without notice, the applicant must serve a copy of the application on each respondent within 48 hours after the order is made.

(5) Within 48 hours after the making of an order without notice, the applicant must serve a copy of the order on—

- (a) the parties, unless the court directs otherwise;
- (b) any person who has actual care of the child or who had such care immediately prior to the making of the order; and
- (c) in the case of an emergency protection order and a recovery order, the local authority in whose area the child lives or is found.

(6) Where the court refuses to make an order on an application without notice it may direct that the application is made on notice in which case the application will proceed in accordance with rules 12.13 to 12.15.

(7) Where the hearing takes place outside the hours during which the court office is normally open, the court or court officer will take a note of the proceedings.

(Practice Direction 12E (Urgent Business) provides further details of the procedure for out of hours applications. See also Practice Direction 12D (Inherent Jurisdiction (including Wardship Proceedings).)

(Rule 12.47 provides for without-notice applications in proceedings under Chapter 6, section 1 of this Part, (proceedings under the 1980 Hague Convention and the European Convention).)

### **Investigation under section 37 of the 1989 Act**

**12.17.**—(1) This rule applies where a direction is given to an appropriate authority by the court under section 37(1) of the 1989 Act.

(2) On giving the direction the court may adjourn the proceedings.

(3) As soon as practicable after the direction is given the court will record the direction.

(4) As soon as practicable after the direction is given the court officer will—

- (a) serve the direction on—
  - (i) the parties to the proceedings in which the direction is given; and
  - (ii) the appropriate authority where it is not a party;
- (b) serve any documentary evidence directed by the court on the appropriate authority.

(5) Where a local authority informs the court of any of the matters set out in section 37(3)(a) of the 1989 Act it will do so in writing.

(6) Unless the court directs otherwise, the court officer will serve a copy of any report to the court under section 37 of the 1989 Act on the parties.

(Section 37 of the 1989 Act refers to the appropriate authority and section 37(5) of that Act sets out which authority should be named in a particular case.)

### **Disclosure of a report under section 14A(8) or (9) of the 1989 Act**

**12.18.**—(1) In proceedings for a special guardianship order, the local authority must file the report under section 14A(8) or (9) of the 1989 Act<sup>(9)</sup> within the timetable fixed by the court.

(2) The court will consider whether to give a direction that the report under section 14A(8) or (9) of the 1989 Act be disclosed to each party to the proceedings.

(3) Before giving a direction for the report to be disclosed, the court must consider whether any information should be deleted from the report.

(4) The court may direct that the report must not be disclosed to a party.

(5) The court officer must serve a copy of the report in accordance with any direction under paragraph (2).

(6) In paragraph (3), information includes information which a party has declined to reveal under rule 29.1(1).

### **Additional evidence**

**12.19.**—(1) This rule applies to proceedings for a section 8 order or a special guardianship order.

(2) Unless the court directs otherwise, a party must not—

(a) file or serve any document other than in accordance with these rules or any practice direction;

(b) in completing a form prescribed by these rules or any practice direction, give information or make a statement which is not required or authorised by that form; or

(c) file or serve at a hearing—

(i) any witness statement of the substance of the oral evidence which the party intends to adduce; or

(ii) any copy of any document (including any experts' report) which the party intends to rely on.

(3) Where a party fails to comply with the requirements of this rule in relation to any witness statement or other document, the party cannot seek to rely on that statement or other document unless the court directs otherwise.

### **Expert evidence-examination of child**

**12.20.**—(1) No person may cause the child to be medically or psychiatrically examined, or otherwise assessed, for the purpose of preparation of expert evidence for use in the proceedings without the court's permission.

(2) Where the court's permission has not been given under paragraph (1), no evidence arising out of an examination or assessment referred to in that paragraph may be adduced without the court's permission.

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(9) Sections 14A(8) and (9) were inserted by section 115(1) of the Adoption and Children Act 2002.

## **Hearings**

**12.21.**—(1) The court may give directions about the order of speeches and the evidence at a hearing.

(2) Subject to any directions given under paragraph (1), the parties and the children’s guardian must adduce their evidence at a hearing in the following order—

- (a) the applicant;
- (b) any party with parental responsibility for the child;
- (c) other respondents;
- (d) the children’s guardian;
- (e) the child, if the child is a party to proceedings and there is no children’s guardian.