
STATUTORY INSTRUMENTS

1991 No. 1395

The Family Proceedings Courts (Children Act 1989) Rules 1991

PART II
GENERAL

Application for leave to commence proceedings

3.—(1) Where the leave of the court is required to bring any relevant proceedings, the person seeking leave shall file—

- (a) a written request for leave setting out the reasons for the application; and
- (b) a draft of the application for the making of which leave is sought in the appropriate form in Schedule 1 to these Rules or, where there is no such form, in writing, together with sufficient copies for one to be served on each respondent.

(2) On considering a request for leave filed under paragraph (1), the court shall—

- (a) grant the request, whereupon the justices' clerk shall inform the person making the request of the decision, or
- (b) direct that a date be fixed for a hearing of the request, whereupon the justices' clerk shall fix such a date and give such notice as the court directs to the person making the request and to such other persons as the court requires to be notified, of the date so fixed.

(3) Where leave is granted to bring any relevant proceedings, the application shall proceed in accordance with rule 4; but paragraph (1)(a) of that rule shall not apply.

Application

4.—(1) Subject to paragraph (4), an applicant shall—

- (a) file the application in respect of each child in the appropriate form in Schedule 1 to these Rules or where there is no such form, in writing, together with sufficient copies for one to be served on each respondent, and
- (b) serve a copy of the application, endorsed in accordance with paragraph (2)(b), on each respondent such minimum number of days prior to the date fixed under paragraph (2)(a) as is specified in relation to that application in column (ii) of Schedule 2 to these Rules.

(2) On receipt of the documents filed under paragraph (1)(a), the justices' clerk shall—

- (a) fix the date, time and place for a hearing or a directions appointment, allowing sufficient time for the applicant to comply with paragraph (1)(b),
- (b) endorse the date, time and place so fixed upon the copies of the application filed by the applicant, and
- (c) return the copies to the applicant forthwith.

(3) The applicant shall, at the same time as complying with paragraph (1)(b), give written notice of the proceedings, and of the date, time and place of the hearing or appointment fixed under

paragraph (2)(a) to the persons set out in relation to the relevant class of proceedings in column (iv) of Schedule 2 to these Rules.

- (4) An application for—
- (a) a prohibited steps order, or a specific issue order, under section 8,
 - (b) an emergency protection order,
 - (c) a warrant under section 48(9),
 - (d) a recovery order, or
 - (e) a warrant under section 102(1),

may, with leave of the justices' clerk, be made ex parte in which case the applicant shall—

- (i) file with the justices' clerk or the court the application in respect of each child in the appropriate form in Schedule 1 to these Rules at the time when the application is made or as directed by the justices' clerk, and
- (ii) in the case of an application for a prohibited steps order, or a specific issue order, under section 8 or an emergency protection order, and also in the case of an application for an order under section 75(1) where the application is ex parte, serve a copy of the application on each respondent within 48 hours after the making of the order.

(5) Where the court refuses to make an order on an ex parte application it may direct that the application be made inter partes.

(6) In the case of proceedings under Schedule 1, the application under paragraph (1) shall be accompanied by a statement setting out the financial details which the applicant believes to be relevant to the application and containing a declaration that it is true to the maker's best knowledge and belief, together with sufficient copies for one to be served on each respondent.

Withdrawal of application

5.—(1) An application may be withdrawn only with leave of the court.

(2) Subject to paragraph (3), a person seeking leave to withdraw an application shall file and serve on the parties a written request for leave setting out the reasons for the request.

(3) The request under paragraph (2) may be made orally to the court if the parties and, if appointed, the guardian ad litem or the welfare officer are present.

(4) Upon receipt of a written request under paragraph (2), the court shall—

- (a) if—
 - (i) the parties consent in writing,
 - (ii) any guardian ad litem has had an opportunity to make representations, and
 - (iii) the court thinks fit,grant the request; in which case the justices' clerk shall notify the parties, the guardian ad litem and the welfare officer of the granting of the request; or
- (b) the justices' clerk shall fix a date for the hearing of the request and give at least 7 days' notice to the parties, the guardian ad litem and the welfare officer of the date fixed.

Transfer of proceedings

6.—(1) Where, in any relevant proceedings, the justices' clerk or the court receives a request in writing from a party that the proceedings be transferred to another family proceedings court or to a county court, the justices' clerk or court shall issue a certificate in the appropriate form in Schedule 1

to these Rules, granting or refusing the request in accordance with any Order made by the Lord Chancellor under Part I of Schedule 11.

(2) Where a request is granted under paragraph (1), the justices' clerk shall send a copy of the certificate—

- (a) to the parties,
- (b) to any guardian ad litem, and
- (c) to the family proceedings court or to the county court to which the proceedings are to be transferred.

(3) Any consent given or refused by a justices' clerk in accordance with any Order made by the Lord Chancellor under Part I of Schedule 11 shall be recorded in writing by the justices' clerk at the time it is given or refused or as soon as practicable thereafter.

(4) Where a request to transfer proceedings to a county court is refused under paragraph (1), the person who made the request may apply in accordance with rule 4.6 of the Family Proceedings Rules 1991⁽¹⁾ for an order under any Order made by the Lord Chancellor under Part I of Schedule 11.

Parties

7.—(1) The respondents to relevant proceedings shall be those persons set out in the relevant entry in column (iii) of Schedule 2 to these Rules.

(2) In any relevant proceedings a person may file a request in writing that he or another person—

- (a) be joined as a party, or
- (b) cease to be a party.

(3) On considering a request under paragraph (2) the court shall, subject to paragraph (4)—

- (a) grant it without a hearing or representations, save that this shall be done only in the case of a request under paragraph (2)(a), whereupon the justices' clerk shall inform the parties and the person making the request of that decision, or
- (b) order that a date be fixed for the consideration of the request, whereupon the justices' clerk shall give notice of the date so fixed, together with a copy of the request—
 - (i) in the case of a request under paragraph (2)(a), to the applicant, and
 - (ii) in the case of a request under paragraph (2)(b), to the parties, or
- (c) invite the parties or any of them to make written representations, within a specified period, as to whether the request should be granted; and upon the expiry of the period the court shall act in accordance with sub-paragraph (a) or (b).

(4) Where a person with parental responsibility requests that he be joined under paragraph (2) (a), the court shall grant his request.

(5) In any relevant proceedings the court may direct—

- (a) that a person who would not otherwise be a respondent under these Rules be joined as a party to the proceedings, or
- (b) that a party to the proceedings cease to be a party.

Service

8.—(1) Where service of a document is required by these Rules (and not by a provision to which section 105(8) (service of notice or other document under the Act) applies) it may be effected—

- (a) if the person to be served is not known by the person serving to be acting by solicitor—

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- (i) by delivering it to him personally, or
 - (ii) by delivering it at, or by sending it by first-class post to, his residence or his last known residence, or
- (b) if the person to be served is known by the person serving to be acting by solicitor–
- (i) by delivering the document at, or sending it by first-class post to, the solicitor’s address for service,
 - (ii) where the solicitor’s address for service includes a numbered box at a document exchange, by leaving the document at that document exchange or at a document exchange which transmits documents on every business day to that document exchange, or
 - (iii) by sending a legible copy of the document by facsimile transmission to the solicitor’s office.
- (2) In this rule, “first-class post” means first-class post which has been pre-paid or in respect of which pre-payment is not required.
- (3) Where a child who is a party to any relevant proceedings is required by these Rules to serve a document, service shall be effected by–
- (a) the solicitor acting for the child,
 - (b) where there is no such solicitor, the guardian ad litem, or
 - (c) where there is neither such a solicitor nor a guardian ad litem, the justices' clerk.
- (4) Service of any document on a child shall, subject to any direction of the justices' clerk or the court, be effected by service on–
- (a) the solicitor acting for the child,
 - (b) where there is no such solicitor, the guardian ad litem, or
 - (c) where there is neither such a solicitor nor a guardian ad litem, with leave of the justices' clerk or the court, the child.
- (5) Where the justices' clerk or the court refuses leave under paragraph (4)(c), a direction shall be given under paragraph (8).
- (6) A document shall, unless the contrary is proved, be deemed to have been served–
- (a) in the case of service by first-class post, on the second business day after posting, and
 - (b) in the case of service in accordance with paragraph (1)(b)(ii), on the second business day after the day on which it is left at the document exchange.
- (7) At or before the first directions appointment in, or hearing of, relevant proceedings, whichever occurs first, the applicant shall file a statement that service of–
- (a) a copy of the application has been effected on each respondent, and
 - (b) notice of the proceedings has been effected under rule 4(3);
- and the statement shall indicate–
- (i) the manner, date, time and place of service, or
 - (ii) where service was effected by post, the date, time and place of posting.
- (8) In any relevant proceedings, the justices' clerk or the court may direct that a requirement of these Rules to serve a document shall not apply or shall be effected in such manner as the justices' clerk or court directs.

Answer to application

9.—(1) Within 14 days of service of an application for a section 8 order, each respondent shall file and serve on the parties an answer to the application in the appropriate form in Schedule 1 to these Rules.

(2) Within 14 days of service of an application under Schedule 1, each respondent shall file and serve on the parties an answer to the application in the appropriate form in Schedule 1 to these Rules.

Appointment of guardian ad litem

10.—(1) As soon as practicable after the commencement of specified proceedings or the transfer of such proceedings to the court, the justices' clerk or the court shall appoint a guardian ad litem unless—

- (a) such an appointment has already been made by the court which made the transfer and is subsisting, or
- (b) the justices' clerk or the court considers that such an appointment is not necessary to safeguard the interests of the child.

(2) At any stage in specified proceedings a party may apply, without notice to the other parties unless the justices' clerk or the court otherwise directs, for the appointment of a guardian ad litem.

(3) The justices' clerk or the court shall grant an application under paragraph (2) unless it is considered that such an appointment is not necessary to safeguard the interests of the child, in which case reasons shall be given; and a note of such reasons shall be taken by the justices' clerk.

(4) At any stage in specified proceedings the justices' clerk or the court may appoint a guardian ad litem even though no application is made for such an appointment.

(5) The justices' clerk shall, as soon as practicable, notify the parties and any welfare officer of an appointment under this rule or, as the case may be, of a decision not to make such an appointment.

(6) Upon the appointment of a guardian ad litem the justices' clerk shall, as soon as practicable, notify him of the appointment and serve on him copies of the application and of documents filed under rule 17(1).

(7) A guardian ad litem appointed from a panel established by regulations made under section 41(7) shall not—

- (a) be a member, officer or servant of a local authority which, or an authorised person (within the meaning of section 31(9)) who, is a party to the proceedings unless he is employed by such an authority solely as a member of a panel of guardians ad litem and reporting officers;
- (b) be, or have been, a member, officer or servant of a local authority or voluntary organisation (within the meaning of section 105(1)) who has been directly concerned in that capacity in arrangements relating to the care, accommodation or welfare of the child during the five years prior to the commencement of the proceedings;
- (c) be a serving probation officer (except that a probation officer who has not in that capacity been previously concerned with the child or his family and who is employed part-time may, when not engaged in his duties as a probation officer, act as a guardian ad litem).

(8) When appointing a guardian ad litem, the justices' clerk or the court shall consider the appointment of anyone who has previously acted as guardian ad litem of the same child.

(9) The appointment of a guardian ad litem under this rule shall continue for such time as is specified in the appointment or until terminated by the court.

(10) When terminating an appointment in accordance with paragraph (9), the court shall give reasons in writing for so doing, a note of which shall be taken by the justices' clerk.

(11) Where the justices' clerk or the court appoints a guardian ad litem in accordance with this rule or refuses to make such an appointment, the justices' clerk shall record the appointment or refusal in the appropriate form in Schedule 1 to these Rules.

Powers and duties of guardian ad litem

11.—(1) In carrying out his duty under section 41(2), the guardian ad litem shall have regard to the principle set out in section 1(2) and the matters set out in section 1(3)(a) to (f) as if for the word “court” in that section there were substituted the words “guardian ad litem”.

(2) The guardian ad litem shall—

- (a) appoint a solicitor to represent the child, unless such a solicitor has already been appointed, and
- (b) give such advice to the child as is appropriate having regard to his understanding and, subject to rule 12(1)(a), instruct the solicitor representing the child on all matters relevant to the interests of the child, including possibilities for appeal, arising in the course of the proceedings.

(3) Where it appears to the guardian ad litem that the child—

- (a) is instructing his solicitor direct, or
- (b) intends to, and is capable of, conducting the proceedings on his own behalf,

he shall so inform the court through the justices' clerk and thereafter—

- (i) shall perform all of his duties set out in this rule, other than duties under paragraph (2)(a) and such other duties as the justices' clerk or the court may direct,
- (ii) shall take such part in the proceedings as the justices' clerk or the court may direct, and
- (iii) may, with leave of the justices' clerk or the court, have legal representation in his conduct of those duties.

(4) The guardian ad litem shall, unless excused by the justices' clerk or the court, attend all directions appointments in, and hearings of, the proceedings and shall advise the justices' clerk or the court on the following matters—

- (a) whether the child is of sufficient understanding for any purpose including the child's refusal to submit to a medical or psychiatric examination or other assessment that the court has power to require, direct or order;
- (b) the wishes of the child in respect of any matter relevant to the proceedings, including his attendance at court;
- (c) the appropriate forum for the proceedings;
- (d) the appropriate timing of the proceedings or any part of them;
- (e) the options available to it in respect of the child and the suitability of each such option including what order should be made in determining the application;
- (f) any other matter concerning which the justices' clerk or the court seeks his advice or concerning which he considers that the justices' clerk or the court should be informed.

(5) The advice given under paragraph (4) may, subject to any order of the court, be given orally or in writing; and if the advice be given orally, a note of it shall be taken by the justices' clerk or the court.

(6) The guardian ad litem shall, where practicable, notify any person whose joinder as a party to those proceedings would be likely, in the guardian ad litem's opinion, to safeguard the interests of the child, of that person's right to apply to be joined under rule 7(2) and shall inform the justices' clerk or the court—

- (a) of any such notification given,
- (b) of anyone whom he attempted to notify under this paragraph but was unable to contact, and
- (c) of anyone whom he believes may wish to be joined to the proceedings.

(7) The guardian ad litem shall, unless the justices' clerk or the court otherwise directs, not less than 7 days before the date fixed for the final hearing of the proceedings, file a written report advising on the interests of the child; and the justices' clerk shall, as soon as practicable, serve a copy of the report on the parties.

(8) The guardian ad litem shall serve and accept service of documents on behalf of the child in accordance with rule 8(3)(b) and (4)(b) and, where the child has not himself been served, and has sufficient understanding, advise the child of the contents of any documents so served.

(9) The guardian ad litem shall make such investigations as may be necessary for him to carry out his duties and shall, in particular—

- (a) contact or seek to interview such persons as he thinks appropriate or as the court directs,
- (b) if he inspects records of the kinds referred to in section 42, bring to the attention of the court, through the justices' clerk, and such other persons as the justices' clerk or the court may direct, all such records and documents which may, in his opinion, assist in the proper determination of the proceedings, and
- (c) obtain such professional assistance as is available to him which he thinks appropriate or which the justices' clerk or the court directs him to obtain.

(10) In addition to his duties under other paragraphs of this rule, the guardian ad litem shall provide to the justices' clerk and the court such other assistance as may be required.

(11) A party may question the guardian ad litem about oral or written advice tendered by him to the justices' clerk or the court under this rule.

Solicitor for child

12.—(1) A solicitor appointed under section 41(3) or in accordance with rule 11(2)(a) shall represent the child—

- (a) in accordance with instructions received from the guardian ad litem (unless the solicitor considers, having taken into account the views of the guardian ad litem and any direction of the court under rule 11(3), that the child wishes to give instructions which conflict with those of the guardian ad litem and that he is able, having regard to his understanding, to give such instructions on his own behalf in which case he shall conduct the proceedings in accordance with instructions received from the child), or
- (b) where no guardian ad litem has been appointed for the child and the condition in section 41(4)(b) is satisfied, in accordance with instructions received from the child, or
- (c) in default of instructions under (a) or (b), in furtherance of the best interests of the child.

(2) A solicitor appointed under section 41(3) or in accordance with rule 11(2)(a) shall serve and accept service of documents on behalf of the child in accordance with rule 8(3)(a) and (4)(a) and, where the child has not himself been served and has sufficient understanding, advise the child of the contents of any document so served.

(3) Where the child wishes an appointment of a solicitor under section 41(3) or in accordance with rule 11(2)(a) to be terminated, he may apply to the court for an order terminating the appointment; and the solicitor and the guardian ad litem shall be given an opportunity to make representations.

(4) Where the guardian ad litem wishes an appointment of a solicitor under section 41(3) to be terminated, he may apply to the court for an order terminating the appointment; and the solicitor and, if he is of sufficient understanding, the child, shall be given an opportunity to make representations.

(5) When terminating an appointment in accordance with paragraph (3) or (4), the court shall give reasons for so doing, a note of which shall be taken by the justices' clerk.

(6) Where the justices' clerk or the court appoints a solicitor under section 41(3) or refuses to make such an appointment, the justices' clerk shall record the appointment or refusal in the appropriate form in Schedule 1 to these Rules and serve a copy on the parties and, where he is appointed, on the solicitor.

Welfare officer

13.—(1) The welfare officer shall, unless excused by the court or the justices' clerk, attend a hearing if the justices' clerk gives him notice that his report will be given or considered at that hearing; and any party may question the welfare officer about his report at such a hearing.

(2) A welfare officer shall file a copy of any written report at or by such time as the justices' clerk or the court directs or, in the absence of a direction, at least 5 days before a hearing of which he is given notice under paragraph (1); and the justices' clerk shall, as soon as practicable, serve a copy of the report on the parties and any guardian ad litem.

Directions

14.—(1) In this rule, “party” includes the guardian ad litem and, where a request or direction concerns a report under section 7, the welfare officer.

(2) In any relevant proceedings the justices' clerk or the court may, subject to paragraph (5), give, vary or revoke directions for the conduct of the proceedings, including—

- (a) the timetable for the proceedings;
- (b) varying the time within which or by which an act is required, by these Rules, to be done;
- (c) the attendance of the child;
- (d) the appointment of a guardian ad litem whether under section 41 or otherwise, or of a solicitor under section 41(3);
- (e) the service of documents;
- (f) the submission of evidence including experts' reports;
- (g) the preparation of welfare reports under section 7;
- (h) the transfer of the proceedings to another court in accordance with any Order made by the Lord Chancellor under Part I of Schedule 11;
- (i) consolidation with other proceedings;

and the justices' clerk shall, on receipt of an application, or where proceedings have been transferred to his court, consider whether such directions need to be given.

(3) Where the justices' clerk or a single justice who is holding a directions appointment considers, for whatever reason, that it is inappropriate to give a direction on a particular matter, he shall refer the matter to the court which may give any appropriate direction.

(4) Where a direction is given under paragraph (2)(h), a certificate shall be issued in the appropriate form in Schedule 1 to these Rules and the justices' clerk shall follow the procedure set out in rule 6(2).

(5) Directions under paragraph (2) may be given, varied or revoked either—

- (a) of the justices' clerk or the court's own motion having given the parties notice of the intention to do so and an opportunity to attend and be heard or to make written representations,

- (b) on the written request of a party specifying the direction which is sought, filed and served on the other parties, or
 - (c) on the written request of a party specifying the direction which is sought, to which the other parties consent and which they or their representatives have signed.
- (6) In an urgent case, the request under paragraph (5)(b) may, with the leave of the justices' clerk or the court, be made—
- (a) orally,
 - (b) without notice to the parties, or
 - (c) both as in sub-paragraph (a) and as in sub-paragraph (b).
- (7) On receipt of a request under paragraph (5)(b) the justices' clerk shall fix a date for the hearing of the request and give not less than 2 days' notice to the parties of the date so fixed.
- (8) On considering a request under paragraph (5)(c) the justices' clerk or the court shall either—
- (a) grant the request, whereupon the justices' clerk shall inform the parties of the decision, or
 - (b) direct that a date be fixed for the hearing of the request, whereupon the justices' clerk shall fix such a date and give not less than 2 days' notice to the parties of the date so fixed.
- (9) Subject to rule 28, a party may request, in accordance with paragraph 5(b) or (c), that an order be made under section 11(3) or, if he is entitled to apply for such an order, under section 38(1), and paragraphs (6), (7) and (8) shall apply accordingly.
- (10) Where, in any relevant proceedings, the court has power to make an order of its own motion, the power to give directions under paragraph (2) shall apply.
- (11) Directions of the justices' clerk or a court which are still in force immediately prior to the transfer of relevant proceedings to another court shall continue to apply following the transfer, subject to any changes of terminology which are required to apply those directions to the court to which the proceedings are transferred, unless varied or discharged by directions under paragraph (2).
- (12) The justices' clerk or the court shall take a note of the giving, variation or revocation of a direction under this rule and serve, as soon as practicable, a copy of the note on any party who was not present at the giving, variation or revocation.

Timing of proceedings

15.—(1) Any period of time fixed by these Rules, or by any order or direction, for doing any act shall be reckoned in accordance with this rule.

(2) Where the period, being a period of 7 days or less, would include a day which is not a business day, that day shall be excluded.

(3) Where the time fixed for filing a document with the justices' clerk expires on a day on which the justices' clerk's office is closed, and for that reason the document cannot be filed on that day, the document shall be filed in time if it is filed on the next day on which the justices' clerk's office is open.

(4) Where these Rules provide a period of time within which or by which a certain act is to be performed in the course of relevant proceedings, that period may not be extended otherwise than by a direction of the justices' clerk or the court under rule 14.

(5) At the—

- (a) transfer to a court of relevant proceedings,
- (b) postponement or adjournment of any hearing or directions appointment in the course of relevant proceedings, or
- (c) conclusion of any such hearing or directions appointment other than one at which the proceedings are determined, or so soon thereafter as is practicable,

the justices' clerk or the court shall—

- (i) fix a date upon which the proceedings shall come before the justices' clerk or the court again for such purposes as the justices' clerk or the court directs, which date shall, where paragraph (a) applies, be as soon as possible after the transfer, and
- (ii) give notice to the parties and to the guardian ad litem or the welfare officer of the date so fixed.

Attendance at directions appointment and hearing

16.—(1) Subject to paragraph (2), a party shall attend a directions appointment of which he has been given notice in accordance with rule 14(5) unless the justices' clerk or the court otherwise directs.

- (2) Relevant proceedings shall take place in the absence of any party including the child 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 party is represented by a guardian ad litem or solicitor;

and when considering the interests of the child under sub-paragraph (a) the court shall give the guardian ad litem, solicitor for the child and, if he is of sufficient understanding, the child, an opportunity to make representations.

(3) Subject to paragraph (4) below, where at the time and place appointed for a hearing or directions appointment the applicant appears but one or more of the respondents do not, the justices' clerk or the court may proceed with the hearing or appointment.

- (4) The court shall not begin to hear an application in the absence of a respondent unless—
 - (a) it is proved to the satisfaction of the court that he received reasonable notice of the date of the hearing; or
 - (b) the court is satisfied that the circumstances of the case justify proceeding with the hearing.

(5) Where, at the time and place appointed for a hearing or directions appointment, one or more respondents appear but the applicant does not, the court may refuse the application or, if sufficient evidence has previously been received, proceed in the absence of the applicant.

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

(7) If the court considers it expedient in the interests of the child, it shall hear any relevant proceedings in private when only the officers of the court, the parties, their legal representatives and such other persons as specified by the court may attend.

Documentary Evidence

17.—(1) Subject to paragraphs (4) and (5), in any relevant proceedings a party shall file and serve on the parties, any welfare officer and any guardian ad litem of whose appointment he has been given notice under rule 10(5)—

- (a) written statements of the substance of the oral evidence which the party intends to adduce at a hearing of, or a directions appointment in, those proceedings, which shall—
 - (i) be dated,
 - (ii) be signed by the person making the statement, and
 - (iii) contain a declaration that the maker of the statement believes it to be true and understands that it may be placed before the court, and
- (b) copies of any documents, including, subject to rule 18(3), experts' reports, upon which the party intends to rely, at a hearing of, or a directions appointment in, those proceedings,

at or by such time as the justices' clerk or the court directs or, in the absence of a direction, before the hearing or appointment.

(2) A party may, subject to any direction of the justices' clerk or the court about the timing of statements under this rule, file and serve on the parties a statement which is supplementary to a statement served under paragraph (1).

(3) At a hearing or directions appointment a party may not, without the leave of the justices' clerk, in the case of a directions appointment, or the court—

- (a) adduce evidence, or
- (b) seek to rely on a document,

in respect of which he has failed to comply with the requirements of paragraph (1).

(4) In proceedings for a section 8 order a party shall—

- (a) neither file nor serve any document other than as required or authorised by these Rules, and
- (b) in completing a form prescribed by these Rules, neither give information, nor make a statement, which is not required or authorised by that form,

without the leave of the justices' clerk or the court.

(5) In proceedings for a section 8 order, no statement or copy may be filed under paragraph (1) until such time as the justices' clerk or the court directs.

Expert evidence – examination of child

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

(2) An application for leave under paragraph (1) shall, unless the justices' clerk or the court otherwise directs, be served on all the parties to the proceedings and on the guardian ad litem.

(3) Where the leave of the justices' clerk or the court has not been given under paragraph (1), no evidence arising out of an examination or assessment to which that paragraph applies may be adduced without the leave of the court.

Amendment

19.—(1) Subject to rule 17(2), a document which has been filed or served in any relevant proceedings may not be amended without the leave of the justices' clerk or the court which shall, unless the justices' clerk or the court otherwise directs, be requested in writing.

(2) On considering a request for leave to amend a document the justices' clerk or the court shall either—

- (a) grant the request, whereupon the justices' clerk shall inform the person making the request of that decision, or
- (b) invite the parties or any of them to make representations, within a specified period, as to whether such an order should be made.

(3) A person amending a document shall file it with the justices' clerk and serve it on those persons on whom it was served prior to amendment; and the amendments shall be identified.

Oral Evidence

20. The justices' clerk or the court shall keep a note of the substance of the oral evidence given at a hearing of, or directions appointment in, relevant proceedings.

Hearing

21.—(1) Before the hearing, the justice or justices who will be dealing with the case shall read any documents which have been filed under rule 17 in respect of the hearing.

(2) The justices' clerk at a directions appointment, or the court at a hearing or directions appointment, may give directions as to the order of speeches and evidence.

(3) Subject to directions under paragraph (2), at a hearing of, or directions appointment in, relevant proceedings, the parties and the guardian ad litem shall adduce their evidence in the following order—

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

(4) After the final hearing of relevant proceedings, the court shall make its decision as soon as is practicable.

(5) Before the court makes an order or refuses an application or request, the justices' clerk shall record in writing—

- (a) the names of the justice or justices constituting the court by which the decision is made, and
- (b) in consultation with the justice or justices, the reasons for the court's decision and any findings of fact.

(6) When making an order or when refusing an application, the court, or one of the justices constituting the court by which the decision is made, shall state any findings of fact and the reasons for the court's decision.

(7) After the court announces its decision, the justices' clerk shall as soon as practicable—

- (a) make a record of any order made in the appropriate form in Schedule 1 to these Rules or, where there is no such form, in writing; and
- (b) subject to paragraph (8), serve a copy of any order made on the parties to the proceedings and on any person with whom the child is living.

(8) Within 48 hours after the making of an order under section 48(4) or the making, ex parte, of—

- (a) a prohibited steps order, or a specific issue order, under section 8, or
- (b) an order under section 44, 48(9), 50, 75(1) or 102(1),

the applicant shall serve a copy of the order in the appropriate form in Schedule 1 to these Rules on—

- (i) each party,
- (ii) any person who has actual care of the child, or who had such care immediately prior to the making of the order, and
- (iii) in the case of an order referred to in sub-paragraph (b), the local authority in whose area the child lives or is found.