
STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 16

**REPRESENTATION OF CHILDREN AND REPORTS
IN PROCEEDINGS INVOLVING CHILDREN**

CHAPTER 8

DUTIES OF SOLICITOR ACTING FOR THE CHILD

Solicitor for child

16.29.—(1) Subject to paragraphs (2) and (4), a solicitor appointed—

- (a) under section 41(3) of the 1989 Act; or
- (b) by the children’s guardian in accordance with the Practice Direction 16A,

must represent the child in accordance with instructions received from the children’s guardian.

(2) If a solicitor appointed as mentioned in paragraph (1) considers, having taken into account the matters referred to in paragraph (3), that the child—

- (a) wishes to give instructions which conflict with those of the children’s guardian; and
- (b) is able, having regard to the child’s understanding, to give such instructions on the child’s own behalf,

the solicitor must conduct the proceedings in accordance with instructions received from the child.

(3) The matters the solicitor must take into account for the purposes of paragraph (2) are—

- (a) the views of the children’s guardian; and
- (b) any direction given by the court to the children’s guardian concerning the part to be taken by the children’s guardian in the proceedings.

(4) Where—

- (a) no children’s guardian has been appointed; and
- (b) the condition in section 41(4)(b) of the 1989 Act is satisfied,

a solicitor appointed under section 41(3) of the 1989 Act must represent the child in accordance with instructions received from the child.

(5) Where a solicitor appointed as mentioned in paragraph (1) receives no instructions under paragraphs (1), (2) or (4), the solicitor must represent the child in furtherance of the best interests of the child.

(6) A solicitor appointed under section 41(3) of the 1989 Act or by the children’s guardian in accordance with Practice Direction 16A must serve documents, and accept service of documents, on behalf of the child in accordance with rule 6.31 and, where the child has not been served separately and has sufficient understanding, advise the child of the contents of any document so served.

- (7) Where the child wishes an appointment of a solicitor—
- (a) under section 41(3) of the 1989 Act; or
 - (b) by the children’s guardian in accordance with the Practice Direction 16A,
- to be terminated—
- (i) the child may apply to the court for an order terminating the appointment; and
 - (ii) the solicitor and the children’s guardian will be given an opportunity to make representations.
- (8) Where the children’s guardian wishes an appointment of a solicitor under section 41(3) of the 1989 Act to be terminated—
- (a) the children’s guardian may apply to the court for an order terminating the appointment; and
 - (b) the solicitor and, if of sufficient understanding, the child, will be given an opportunity to make representations.
- (9) When terminating an appointment in accordance with paragraph (7) or (8), the court will give its reasons for so doing, a note of which will be taken by the court or a court officer.
- (10) The court or a court officer will record the appointment under section 41(3) of the 1989 Act or the refusal to make the appointment.