

NEW PRACTICE DIRECTION

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

The new Practice Direction comes into force on the day after the date on which this document is approved.

Signed:

_____ Date: _____ 6 May 2020 _____

Sir Andrew McFarlane

The President of the Family Division

Signed:

_____ Date: _____ 7 May 2020 _____

Alex Chalk MP

Parliamentary Under-Secretary of State,

Ministry of Justice

NEW PRACTICE DIRECTION 36R – PILOT PROVISION: MODIFICATION OF PRACTICE DIRECTIONS 2C, 5B AND 12A- CORONAVIRUS

(1) After Practice Direction 36Q insert the new Practice Direction 36R set out in the Annex to this document.

ANNEX

New Practice Direction 36R to be inserted after Practice Direction 36Q:

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

This practice direction supplements rule 36.2 FPR (transitional arrangements and pilot schemes)

1.1 This practice direction is made under rule 36.2 of the Family Procedure Rules. It is intended to assess modifications to Practice Directions 2C, 5B and 12A that may be necessary as temporary measures during the coronavirus pandemic to ensure that the administration of justice is carried out so as not to endanger public health and so as to take account of available resources.

1.2 This Practice Direction ceases to have effect on 30 October 2020.

1.3 Practice Direction 2C (justices' legal adviser) is modified as follows-

(a) in the table, in the row where the first column reads FPR 12.3(2), delete the wording in the second column; and

(b) at the end of the table, insert the following new rows-

"FPR rule 3A.4, 3A.5 and 3A.6	Only where: a) the proceedings are allocated within the family court to lay justices or when the justices' legal adviser is acting as a gatekeeper at the allocation stage; and b) the measure specified is under 3A.8(1)(a) to 3A.8(1)(c).
Practice Direction 6C	Only where the proceedings are allocated within the family court to lay justices or when the justices' legal adviser is acting as a gatekeeper at the allocation stage.
the 1989 Act, section 10(1)(a)	Only where: a) the proceedings are allocated within the family court to lay justices or when the justices' legal adviser is acting as a gatekeeper at the allocation stage; b) all parties consent to the order being made; c) CAFCASS has confirmed that no safeguarding issues have been identified which require further enquiry or would preclude the parties agreeing a consent order; and d) the principles of PD12J have been applied and the justices' legal adviser determines it is consistent with PD12J and the child's welfare to make the order in the terms sought.

<p>the 1989 Act, sections 11A(2), 11A(2B), 11C(2), 11E(7), 11G(2), 11H(2), 11H(5) and 11H(8)</p>	<p>Only where the proceedings are allocated within the family court to lay justices or when the justices' legal adviser is acting as a gatekeeper at the allocation stage."</p>
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1.4 Practice Direction 5B (communication and filing of documents by email) is modified as follows-

(a) for the heading to Chapter 2 substitute-

“SPECIFIED ORGANISATIONS AND ADOPTION AGENCIES”; and

(b) after paragraph 2.1 insert-

2.1A Subject to this Chapter-

(a) a specified organisation;

(b) an adoption agency (other than a local authority) which has taken part at any stage in the arrangements for the adoption of the child; or

(c) a legal representative of a specified organisation or of an adoption agency referred to in sub-paragraph (b),

may email a court at the court's specified email address and attach or include one or more documents related to adoption proceedings.

2.1B Paragraph 2.1A does not apply to an application for an adoption order (section 46 of the 2002 Act).”.

1.5 Practice Direction 12A (care, supervision and other Part 4 proceedings: guide to case management) is modified by substituting the second sentence in paragraph 4.1 with the following-

“The justices' legal adviser (with responsibility for gatekeeping and allocation of proceedings) and/or a district judge (with responsibility for allocation and gatekeeping of proceedings) will consider initial allocation as provided for in any Guidance issued by the President on distribution of business of the family court.”.
