

PRACTICE DIRECTION – HOW TO START PROCEEDINGS

This practice direction supplements Part 9 of the Court of Protection Rules 2007

PRACTICE DIRECTION B – NOTIFICATION OF OTHER PERSONS THAT AN APPLICATION FORM HAS BEEN ISSUED

General

1. Rule 70 requires the applicant to notify certain persons of the application in accordance with the relevant practice direction.¹

Who is to be notified

2. The persons who should be notified will vary according to the nature of the application.
3. A person who has been named as respondent in the application form should not also be notified. Any reference in this practice direction to a person to be notified does not apply where the person has already been named as a respondent.
4. The applicant must seek to identify at least three persons who are likely to have an interest in being notified that an application form has been issued. The applicant should notify them:
 - (a) that an application form has been issued;
 - (b) whether it relates to the exercise of the court's jurisdiction in relation to P's property and affairs, or his personal welfare, or both; and
 - (c) of the order or orders sought.
5. Members of P's close family are, by virtue of their relationship to P, likely to have an interest in being notified that an application has been made to the court concerning P. It should be presumed, for example that a spouse or civil partner, any other partner, parents and children are likely to have an interest in the application.

¹ See rule 67(2) for certain applications relating to lasting powers of attorney, and rule 68(2) for certain applications relating to enduring powers of attorney, which do not require notification to be given in accordance with this practice direction.

6. This presumption may be displaced where the applicant is aware of circumstances which reasonably indicate that P's family should not be notified, but that others should be notified instead. For example, where the applicant knows that the relative in question has had little or no involvement in P's life and has shown no inclination to do so, he may reasonably conclude that that relative need not be notified. In some cases, P may be closer to persons who are not relatives and if so, it will be appropriate to notify them instead of family members.

7. The following list of people is ordered according to the presumed closeness in terms of relationship to P. They should be notified in descending order (as appropriate to P's circumstances):
 - (a) spouse or civil partner;
 - (b) person who is not a spouse or a civil partner but who has been living with P as if they were;
 - (c) parent or guardian;
 - (d) child;
 - (e) brother or sister;
 - (f) grandparent or grandchild;
 - (g) aunt or uncle;
 - (h) child of a person falling within subparagraph (e);
 - (i) step-parent; and
 - (j) half-brother or half-sister.

(If any of the people to be notified are children or protected parties, see rule 32.)

8. Where the applicant decides that a person listed in one of the categories in paragraph 7 ought to be notified, and there are other persons in that category (e.g. P has four siblings), the applicant should notify all persons falling within that category unless there is a good reason not to do so. For example, it may be a good reason not to notify every person in the category if one or more of them has had little or no involvement in P's life and has shown no inclination to do so.

9. Where the applicant chooses not to notify a person listed in paragraph 7 because the presumption has been displaced (see paragraphs 6 and 8 above) the evidence in support of the application form must also set out why that person was not notified.

10. In addition to the list in paragraph 7, the following persons must be notified where appropriate:

- (a) where P is under 18, any person with parental responsibility for P within the meaning of the Children Act 1989;
- (b) any legal or natural person who is likely to be affected by the outcome of any application. For example, where there is an organisation (including an NHS body) responsible for P's care (and the application is made by another person) the organisation should be notified where the application relates to the provision to, or withdrawal from, P of medical or other treatment or accommodation;
- (c) any deputy appointed by the court, an attorney appointed under an enduring power of attorney or a donee of a lasting power of attorney (where that person has power to make decisions on behalf of P in regard to a matter to which the application relates). For example, where the application relates to P's property, and a deputy has been appointed to make decisions in relation to P's property, the deputy should be notified; and
- (d) any other person not already mentioned whom the applicant reasonably considers has an interest in being notified that an application form has been issued. For example, P may have a close friend with an interest in being notified because he provides care to P on an informal basis.

11. Where the applicant chooses not to notify a person listed in paragraph 10 the evidence in support of the application form must also set out why that person was not notified.

Method of notification

12. Notification must be provided using a COP15 form.

13. The provisions of Part 6 and practice direction A accompanying Part 6 apply similarly to notification as they do to service.²

² See rule 29(1).