

PRACTICE DIRECTION – PERMISSION

This practice direction supplements Part 8 of the Court of Protection Rules 2007

PRACTICE DIRECTION A – PERMISSION

Where permission is required

1. An applicant must apply for permission to start proceedings under the Act, unless either section 50 of, paragraph 20(2) of Schedule 3 to, the Act or rule 51 applies. The application must be made using form COP2 (“the permission form”).
2. If part of the application is a matter for which permission is required and part of it is not, permission must be sought for the part that requires it.¹
3. In such circumstances, the applicant may file a single application form seeking both orders. The application form will not be issued until permission has been granted for the part that requires it. If permission is refused for that part, the application form will be issued only for the part of the application not requiring permission.
4. Alternatively, the applicant may file two separate application forms (and pay two application fees) so that the application not requiring permission can be commenced immediately. If permission is subsequently granted for the application requiring it, the court may consolidate the applications.

Documents to be filed with the permission form

5. The applicant must file the following documents with the permission form:
 - (a) a draft of the application form using form COP1; and
 - (b) an assessment of capacity form using form COP3.²
6. If the applicant is unable to complete an assessment of capacity form (as may be the case, for example, where P does not reside with the applicant and the

¹ Rule 53(2).

² The COP3 form is not needed for applications concerning the court's power under sections 22 or 23 of, or Schedule 4 to, the Act.

applicant is unable to take P to a doctor, or where P refuses to undergo the assessment), the applicant should file a witness statement with the permission form explaining:

- (a) why he has not been able to obtain an assessment of capacity;
- (b) what attempts (if any) he has made to obtain an assessment of capacity; and
- (c) why he knows or believes that P lacks capacity to make a decision or decisions in relation to any matter that is the subject of the proposed application to the court.

7. The applicant is not required to file any of the annexes to the application form with the permission form,³ or any of the other information referred to in rule 64, but may do so if he wishes.

Notice of permission application

8. Where the court decides to hold a hearing in order to make a decision as to permission, it will notify the applicant and such other persons it requires to be notified.⁴ If any such person wishes to participate in the permission hearing, he must file an acknowledgment of notification⁵ using form COP5.

What the court will do if it grants permission

9. If the court grants permission, it may give directions in connection with the issue of the application form.⁶

³ Annex A (Supporting information for property and affairs applications) and Annex B (Supporting information for personal welfare applications).

⁴ See rule 56.

⁵ In accordance with rule 57.

⁶ Rule 65 provides that the court will issue the application form where permission has been granted.