

PRACTICE DIRECTION – HOW TO START PROCEEDINGS

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

PRACTICE DIRECTION A – THE APPLICATION FORM

The application form

1. To begin proceedings, the applicant must file an application form using form COP1.
2. The application form must:
 - (a) state the matter which the applicant wants the court to decide;
 - (b) state the order which the applicant is seeking;
 - (c) name (unless an order to the contrary pursuant to rule 19 has been made):
 - (i) the applicant,
 - (ii) P,
 - (iii) as a respondent, any person (other than P) whom the applicant reasonably believes to have an interest which means that he ought to be heard in relation to the application (as opposed to being notified of it), and
 - (iv) any person whom the applicant intends to notify in accordance with rule 70; and
 - (d) if the applicant is applying in a representative capacity, state what that capacity is.¹
3. The application form must include (unless an order to the contrary pursuant to rule 19 has been made):
 - (a) an address at which the applicant resides or carries on business;
 - (b) an address at which P resides or carries on business;
 - (c) an address at which each person named as a respondent to the proceedings resides or carries on business, and details of how each respondent is connected to P; and
 - (d) an address at which any person (other than P) whom the applicant intends to notify of the application resides or carries on business, and details of how each person is connected to P.

¹ Rule 63.

4. Paragraph 3 applies even though a solicitor or litigation friend has agreed, as the case may be, to accept service.
5. The application form must be headed with the name of the person to whom the application relates (unless an order to the contrary pursuant to rule 19 has been made).

Statement of truth

6. Rule 11 requires an application form to be verified by a statement of truth where the applicant seeks to rely on matters set out in it as evidence.
7. The form of the statement of truth is as follows:

“[I believe] [The applicant believes] that the facts stated in this application form and its annex(es) are true.”
8. Attention is drawn to rule 14 which sets out the consequences of verifying an application form containing a false statement without an honest belief in its truth.

(Practice direction B accompanying Part 4 sets out more detailed requirements for statements of truth.)

Documents to be filed with the application form

9. The application form must be supported by evidence set out in either:
 - (a) a witness statement; or
 - (b) the application form provided it is verified by a statement of truth.
10. A witness statement must be verified by a statement of truth in the following terms:

“I believe that the facts stated in this witness statement are true.”
11. The evidence must set out the facts on which the applicant relies, and all material facts known to the applicant of which the court should be made aware.
12. The documents or instruments, as the case may be, specified in the table below must be filed with the court along with the application form, unless this is impractical or the court has directed otherwise.

Type of document or instrument	When document is to be filed
Any order granting permission	If permission is required.
Assessment of capacity form (COP3)	Unless already filed with the permission form. ²
Annex A: Supporting information for property and affairs applications (COP1A)	Where an order relating to P's property and affairs is sought. ³
Annex B: Supporting information for personal welfare applications (COP1B)	Where an order relating to P's personal welfare is sought. ⁴
Lasting power of attorney or enduring power of attorney	Where the application concerns the court's power under section 22 or 23 of, or Schedule 4 to, the Act (where available).
Deputy's declaration (COP4)	Where the application is for the appointment of a deputy.
Order appointing a deputy	Where the application relates to or is made by a deputy.
Order appointing a litigation friend	Where the application is made by, or where the application relates to the appointment of, a litigation friend.
Order of the Court of Protection	Where the application relates to the order.
Order of another court (and where the judgment is not in English, a translation of it into English: (i) certified by a notary public or other qualified person; or (ii) accompanied by written evidence confirming that the translation is accurate).	Where the application relates to an order made by another court.

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.

³ Annex A is not needed for applications concerning the court's power under sections 22 or 23 of, or Schedule 4 to, the Act.

⁴ Annex B is not needed for applications concerning the court's power under sections 22 or 23 of, or Schedule 4 to, the Act.

13. Rule 10 and practice direction A accompanying Part 4 set out how documents are to be filed at court.

14. 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 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 application 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 subject of the proposed application.

Start of proceedings

15. The date on which the application form was received by the court will be recorded by a date stamp either on the application form held on the court file or on the letter that accompanied the application form when it was received by the court.

16. Any enquiry as to the date on which the court received an application form should be directed to a court officer.