

PRACTICE DIRECTION – APPLICATIONS WITHIN PROCEEDINGS

This practice direction supplements Part 10 of the Court of Protection Rules 2007

PRACTICE DIRECTION B – URGENT AND INTERIM APPLICATIONS

Urgent applications and applications without notice

1. These fall into two categories:
 - (a) applications where an application form has already been issued; and
 - (b) applications where an application form has not yet been issued,and, in both cases, where notice of the application has not been given to the respondent(s).
2. Wherever possible, urgent applications should be made within court hours. These applications will normally be dealt with at court but cases of extreme urgency may be dealt with by telephone. Telephone contact may be made with the court during business hours on 084 5330 2900.
3. When it is not possible to apply within court hours, contact should be made with the security office at the Royal Courts of Justice on 020 7947 6000. The security officer should be informed of the nature of the case.
4. In some cases, urgent applications arise because applications to the court have not been pursued sufficiently promptly. This is undesirable, and should be avoided. A judge who has concerns that the facility for urgent applications may have been abused may require the applicant or the applicant's representative to attend at a subsequent hearing to provide an explanation for the delay.

Applications without notice

5. The applicant should take steps to advise the respondent(s) by telephone or in writing of the application, unless justice would be defeated if notice were given.
6. If an order is made without notice to any other party, the order will ordinarily contain:

- (a) an undertaking by the applicant to the court to serve the application notice, evidence in support and any order made on the respondent and any other person the court may direct as soon as practicable or as ordered by the court; and
- (b) a return date for a further hearing at which the other parties can be present.

Applications where an application form has already been issued

7. An application notice using form COP9, evidence in support and a draft order should be filed with the court in advance of the hearing wherever possible. If the order sought is unusually long or complex, a disk containing the draft order sought should be made available to the court in a format compatible with the word processing software used by the court. (Queries in relation to software should be directed to a court officer.)

(Practice direction A accompanying Part 10 sets out more detailed requirements in relation to an application notice.)

8. If an application is made before the application notice has been filed, a draft order should be provided at the hearing, and the application notice and evidence in support must be filed with the court on the next working day or as ordered by the court.

Applications made before the issue of an application form

9. Where the exceptional urgency of the matter requires, an application may be started without filing an application form if the court allows it (but where time permits an application should be made in writing). In such a case, an application may be made to the court orally. The court will require an undertaking that the application form in the terms of the oral application be filed on the next working day, or as required by the court.
10. An order made before the issue of the application form should state in the title after the names of the applicant and the respondent, "the Applicant and Respondent in an Intended Application".

Applications made by telephone

11. Where it is not possible to file an application form or notice, applications can be made by telephone in accordance with the contact details set out in paragraphs 2 and 3 of this practice direction.

Hearings conducted by telephone

12. When a hearing is to take place by telephone, if practical it should be conducted by tape-recorded conference call, and arranged (and paid for in the first instance) by the applicant. All parties and the judge should be informed that the call is being recorded by the service provider. The applicant should order a transcript of the hearing from the service provider.

Type of case may be indicated in the application notice

13. The applicant may indicate in the application notice that the application:

- (a) is urgent;
- (b) should be dealt with by a particular judge or level of judge within the court;
- (c) requires a hearing; or
- (d) any combination of the above.

Urgent cases in relation to serious medical treatment

14. Practice direction E accompanying Part 9 sets out the procedure in relation to applications relating to serious medical treatment. Practice direction A accompanying Part 12 sets out the manner in which those cases are to be allocated.

Interim injunction applications

15. Rule 82 enables the court to grant an interim injunction.

16. Any judge of the court may vary or discharge an interim injunction granted by any judge of the court.

17. Any order for an interim injunction must set out clearly what the respondent or any other person must or must not do. The order may contain an undertaking by the applicant to pay any damages which the respondent(s) sustains which the court considers the applicant should pay.