

PRACTICE DIRECTION UPDATE: No. 2 of 2022

The amendments to existing Practice Directions, and the new Practice Direction, supplementing the Family Procedure Rules 2010 are 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 Lord Wolfson QC, Parliamentary Under-Secretary of State, Ministry of Justice.

The provisions in this Practice Direction Update come into force as follows:

Provision	Coming into force date
Amendments to Practice Direction 2A	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendments to Practice Direction 2C	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendments to Practice Direction 5A	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendments to Practice Direction 6A	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendments to Practice Direction 6C	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendments to Practice Direction 7A	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendments to Practice Direction 7B	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendments to Practice Direction 7C	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendments to Practice Direction 9A	On the day on which section 1 of the Divorce, Dissolution and Separation Act 2020 comes fully into force.
Amendment to Practice Direction 36M	On the day after the date on which this Practice Direction Update is signed.
Amendment to Practice Direction 36V	On the day after the date on which this Practice Direction Update is signed.
Amendment to Practice Direction 36W	On the day after the date on which this Practice Direction Update is signed.
Amendments to Practice Direction 36Z	On the day after the date on which this Practice Direction Update is signed.

New Practice Direction 36ZA	28 February 2022.
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Signed:

_____ Date: _____
 Sir Andrew McFarlane
 The President of the Family Division

Signed:

_____ Date: _____
 Lord Wolfson QC
 Parliamentary Under-Secretary of State, Ministry of Justice

PRACTICE DIRECTION 2A – FUNCTIONS OF THE COURT IN THE FAMILY PROCEDURE RULES 2010 AND PRACTICE DIRECTIONS WHICH MAY BE PERFORMED BY A SINGLE JUSTICE OF THE PEACE

- (1) In Table 2, in the entry for “PD 7A – Procedure for Applications in Matrimonial and Civil Partnership Proceedings – Paragraphs 3.4, 5.3 and 7.1”, in the second column-
- (a) for “7.22(2)(c)” substitute “7.17(2)(c)”; and
 - (b) for “undefended” substitute “standard”.

PRACTICE DIRECTION 2C – JUSTICES’ LEGAL ADVISER

- (1) In the Table-
- (a) for “undefended” substitute “standard” each time it appears in column 2 of the Table;
 - (b) omit the entry for “the 1973 Act, section 1(3)”;
 - (c) in the entry for “the 1973 Act, sections 1(4) and 1(5)”-
 - (i) in column 1, before “1(4)” insert “1(3)”;
 - (ii) in column 2, for “absolute” substitute “final”;
 - (iii) in column 2 for “decrees” substitute “conditional orders”;
 - (d) in the entry for “the 1973 Act, section 17(2)” for “17(2)” substitute “17(1B)”;
 - (e) in the entry for “the 2004 Act, sections 44 (2) and (4)” omit “(2) and”;
 - (f) omit the entry for “FPR rule 7.10(3)(a)”;
 - (g) in the entry for “FPR rule 7.13(5)(b)”-
 - (i) for “7.13(5)(b)” substitute “7.8(3)(b)”; and
 - (ii) omit ‘only in undefended cases’;
 - (h) in the entry for “FPR rule 7.13(7)”-
 - (i) for “7.13(7)” substitute “7.8(4)”; and
 - (ii) omit “only in undefended cases”;

- (i) omit the entry for “FPR rule 7.13(8)”;
- (j) omit the entry for “FPR rule 7.14(1)”;
- (k) in the entry for “FPR rule 7.20(2)” for “7.20(2)” substitute “7.10(2)”;
- (l) in the entry for “FPR rule 7.20(3)” for “7.20(3)” substitute “7.10(3)”;
- (m) in the entry for “FPR rule 7.20(4)” for “7.20(4)” substitute “7.10(4)”;
- (n) omit the entry for “FPR rule 7.20(5)”;
- (o) omit the entry for “FPR rule 7.21(3)”;
- (p) in the entry for “FPR rule 7.30(1)(d)(ii) and (3)” for “7.30” substitute “7.23”; and
- (q) in the entry for “FPR 7.32(2)” for “7.32(2)” substitute “7.19(4)”.

PRACTICE DIRECTION 5A - FORMS

(1) In paragraph 3.1-

(a) in Table 1, in the entry for “Part 7 Matrimonial and Civil Partnership Proceedings”-

- (i) omit “D8 Notes, D8N Notes, D80A, D80B, D80C, D80D, D80E, D80F, D80G”;
- (ii) after “D8B” insert “D8BN”;
- (iii) after “D8N” insert “D8S”;
- (iv) after “D36” insert “D36A, D36N”; and
- (v) after “D84” insert “D84NV, D84NVA”; and

(b) in Table 2-

- (i) in the entry for Form “D8” for “Divorce/dissolution/(judicial) separation petition” substitute “Application for a divorce or dissolution (ending a civil partnership)”;
- (ii) omit the entry for Form “D8 Notes”;
- (iii) in the entry for Form “D8B” for “or nullity petition” substitute “application”;
- (iv) after the row for Form “D8B” insert-

“D8BN	Answer to a nullity application”
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- (v) in the entry for Form “D8N” for “petition” substitute “application”;
- (vi) after the row for Form “D8N” insert-

“D8S	Application for a (judicial) separation”
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- (vii) omit the entry for Form “D8N Notes”;
- (viii) in the entry for Form “D13B” for “petition” substitute “application”;
- (ix) in the entry for Form “D36” omit “Decree Nisi to be made Absolute or”;
- (x) after the row for Form “D36” insert-

“D36A	Notice of application for a conditional order to be made final (Where the conditional order was made on a joint application, but you wish to make a sole application at this stage)
D36N	Notice of application for a conditional order of nullity to be made final”

- (xi) omit the entries from Form “D80A” to Form “D80G”;

- (xii) in the entry for Form “D84” omit “decree nisi/” and “decree/”; and
 (xiii) after the row for Form “D84” insert-

“D84NV	Application for a conditional order of nullity – void marriage/civil partnership
D84NVA	Application for a conditional order of nullity – voidable marriage/civil partnership”

PRACTICE DIRECTION 6A – SERVICE WITHIN THE JURISDICTION

- (1) After paragraph 4.6 insert—
“4A Service by email of an application for a matrimonial order or civil partnership order in the jurisdiction under rule 6.7A

4A.1 Where the respondent does not provide an email address rule 6.7A provides for email service by sending it to the respondent’s usual email address. This is generally considered to be the email address actively used by the respondent for personal emails. Email service to a respondent’s business email address should be avoided where possible.”.

- (2) In paragraph 11.2, after “made if” insert “email service (if applicable) and”.
 (3) In paragraph 11.3 after “evidence that” insert “email service (if applicable) and”.

PRACTICE DIRECTION 6C – DISCLOSURE OF ADDRESSES BY GOVERNMENT DEPARTMENTS 13 FEBRUARY 1989 [AS AMENDED BY PRACTICE DIRECTION 20 JULY 1995]

- (1) In paragraph 1(b) for “petition” substitute “application”.

PRACTICE DIRECTION PART 7A - PROCEDURE FOR APPLICATIONS IN MATRIMONIAL AND CIVIL PARTNERSHIP PROCEEDINGS

- (1) In paragraph 1.2, omit the sentences starting from “it is especially important” until the end of the paragraph.
 (2) Omit paragraph 1.3.
 (3) Omit paragraph 2.1.
 (4) After paragraph 3.4 insert—
 “3.4A In the case of a joint application the references in paragraphs 3.2 and 3.3 to “the applicant” shall be taken to mean either applicant.”.
 (5) In paragraphs 4.1 and 5.1, for “for a matrimonial or civil partnership order” substitute “in nullity proceedings”.

- (6) In paragraph 5.3—
(a) after “the amended answer or,” insert “in nullity proceedings,”; and
(b) omit the words “for a matrimonial or civil partnership order” the second time they appear.

- (7) In paragraph 5A.1 for “An applicant” substitute “In nullity proceedings an applicant”.

- (8) After paragraph 5A.1 insert—

“5A.2 In matrimonial and civil partnership proceedings (other than nullity proceedings) an applicant may make (i) an application (including a joint application) (ii) an amended application (iii) a further (or second) application. A respondent when disputing proceedings may file (i) an answer (ii) an answer to an amended application (iii) an answer to a further (or second) application. Separately, a respondent may file an amended answer. Rule 7.12 sets out when a respondent may make an application.

5A.3 Where it is necessary in some way to amend an application for a matrimonial order or a civil partnership order, there are distinctions to be drawn between an amended application, a supplemental application and a further application –

- (a) an amended application might be used to make alterations or additions to the details given in the application or the orders sought;
- (b) a supplemental application can only be made in nullity proceedings and might be used to add particulars, allegations or acts which occurred after the date of the original application. A supplemental application forms part of the original application and effects an amendment to it;
- (c) a further (or second) application may only be made with permission under FPR 2010, r 7.4(1)(b) except that no permission is required where the applicant has, within one year from the date of the marriage, or civil partnership, made an application for a judicial separation order or separation order and then, after that one-year period has passed, wishes to apply for a divorce or a dissolution order.

5A.4 A respondent may only make an application for a matrimonial or civil partnership order seeking the same relief as the applicant if the applicant’s application has been dismissed or finally determined or if the court gives permission (FPR 2010, r 7.12(1)). Where, for example, an applicant has applied for a divorce or dissolution order and the application has not been pursued, but has not been dismissed or withdrawn, the respondent would require the court’s permission to make an application for a divorce or dissolution order in respect of their marriage or civil partnership. On the other hand, the court’s permission would not be required where, for example, the applicant has applied for a judicial separation order or a separation order and the respondent wishes to apply for a divorce order or dissolution order (where a period of at least one year has expired since the date of the marriage or civil partnership).”.

- (9) In the heading to paragraph 6, and in paragraph 6, for “7.15”, each time it appears, substitute “7.16”.

- (10) In paragraph 7.1—
(a) for “not being dealt with as an undefended case” substitute “disputed”; and
(b) for “7.22(2)(c)” substitute “7.17(2)(c)”.
- (11) In paragraph 8—
(a) in the heading omit “Decree absolute and”;
(b) omit paragraphs 8.1 and 8.2;
(c) in paragraph 8.3, after “application for a” insert “matrimonial or”;
(d) after paragraph 8.3 insert—
 “(Section 1(8) of the Matrimonial Causes Act 1973 provides that the court may, in a particular case, by order shorten the period that would otherwise be applicable.)”; and
(e) in paragraph 8.4—
 (i) for “an undefended” substitute “a standard”;
 (ii) omit “to which the summary procedure applies”.
- (12) After paragraph 8.4 insert—

“Joint applications

9.1 A joint application must be completed in accordance with the notes that accompany the form. If a joint application is progressed by one applicant only it becomes a sole application. A joint application can proceed as a sole application only when applying for a conditional order or final order.

9.2 In a joint application where the conditional order has been made in favour of both parties, but the application for final order is made by one party only that party must first give prior notice to the other party of their intention in accordance with r 7.19(2).

Disputed cases

10.1 An answer cannot be filed disputing the irretrievable breakdown of the marriage or civil partnership. An answer to an application can be filed disputing the validity or subsistence of the marriage or civil partnership or the jurisdiction of the court to entertain proceedings.

Other proceedings

11.1 An applicant (whether a sole or joint applicant) for a matrimonial or civil partnership order must give details in the application of any existing or concluded proceedings known to the applicant in respect of the marriage or civil partnership, or which may have affected its validity or subsistence. This includes any proceedings in England and Wales or in any country outside England and Wales. A respondent to an application must give details of any such existing or concluded proceedings in the acknowledgment of service and in any answer to the application.

11.2 Where, on considering an application in accordance with rule 7.10 or giving directions under rule 7.11 or 7.17, it appears to the court that there are proceedings continuing in any country outside England and Wales which are in respect of the marriage or civil partnership or which are capable of affecting its validity or subsistence, the court must consider whether it is necessary to give directions under rule 7.33 (consideration of whether the proceedings should be stayed under paragraph 9 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 or, for civil partnership proceedings, under rule 4 of the Family Procedure (Civil Partnership: Staying of Proceedings) Rules 2010).

11.3 Any application by a party for matrimonial or civil partnership proceedings to be stayed under paragraph 9 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 or rule 4 of the Family Procedure (Civil Partnership: Staying of Proceedings) Rules 2010) must be made using the Part 18 procedure.

11.4 Where at any stage it appears to the court, whether by virtue of information provided under para 11.1 or otherwise, that proceedings have been concluded in any country outside England and Wales which were in respect of the marriage or civil partnership or which may have affected its validity or subsistence and no answer has been filed disputing the validity or subsistence of the marriage or civil partnership, the court must consider whether to direct:

- (i) that any party to the proceedings provide such further information, or take such other steps, as the court may specify; or
- (ii) that the case be listed for a case management hearing.

Procedure for costs applications: standard cases

12.1 In a standard case, any application for an order in respect of the costs of the proceedings should generally be made no later than the application for a conditional order under r.7.9, but must in any event be made before the date on which the conditional order is made final .

12.2 The applicant must set out in the application notice or in any written evidence in support, the grounds on which the order is sought and, where costs are sought in a specified amount, a summary showing how the amount has been calculated.

12.3 The applicant must serve the application notice and any written evidence in support on the respondent within 7 days after the application has been issued and must file a certificate of service within 7 days thereafter.

12.4 A respondent who opposes the making of a costs order or who disputes the amount of costs claimed must, within 14 days after service of the application, file with the court and serve on the applicant a witness statement setting out the grounds on which the application is opposed.

12.5 The court will normally deal with an application for a costs order under r 7.32(2) without a hearing but may direct a hearing of the application if it considers that a hearing would be appropriate.

12.6 Paragraphs 12.1 to 12.5 do not affect the power of the court to make an order about costs on any other application made in the course of the proceedings.”.

PRACTICE DIRECTION 7B – MEDICAL EXAMINATIONS ON APPLICATIONS FOR ANNULMENT OF A MARRIAGE

- (1) For “7.26” substitute “7.29” each time it appears.
- (2) In paragraph 1.1-
 - (a) for “where the application is undefended”, substitute “in a standard case”;
 - (b) for “defended” substitute “disputed”.

PRACTICE DIRECTION 7C – POLYGAMOUS MARRIAGES

- (1) In the heading to paragraph 3.1 for “decrees” substitute “order”.
- (2) In paragraph 3.1—
 - (a) for “decree nisi” substitute “conditional order”;
 - (b) for “decree absolute” substitute “final order”.

PRACTICE DIRECTION 9A – APPLICATION FOR A FINANCIAL REMEDY

- (1) In paragraph 8.2-
 - (a) omit “in matrimonial proceedings, the decree absolute and in civil partnership proceedings,”;
 - (b) after “the final order” insert “of divorce or dissolution”.

PRACTICE DIRECTION 36M – PILOT SCHEME: ONLINE SYSTEM FOR CERTAIN PUBLIC LAW PROCEEDINGS AND EMERGENCY PROCEEDINGS RELATING TO CHILDREN

- (1) In paragraph 1.3(e) for “31 March 2022” substitute “31 October 2022”.
- (2) In paragraph 2.2D after sub-paragraph (f) insert-
“(g) from 28 February 2022 the family court sitting at any location not already referred to in sub-paragraphs (a) to (f).”.

PRACTICE DIRECTION 36V – PILOT SCHEME: FAMILY MEDIATION VOUCHER SCHEME

- (1) For paragraph 1.2(b) substitute-
“(b) expires at the end of 30 September 2022.”

PRACTICE DIRECTION 36W – PILOT SCHEME: PROCEDURE FOR NOTIFICATION OF CERTAIN PROTECTION ORDERS TO THE POLICE BY EMAIL

- (1) In paragraph 1.3(c) for “26 April 2022” substitute “30 September 2022”.

**PRACTICE DIRECTION 36Z – PILOT SCHEME: PRIVATE LAW REFORM:
INVESTIGATIVE APPROACH**

- (1) In paragraph 4.2(a) for “5B” substitute “5A”.
- (2) In paragraph 5.2(c) after “essential” insert “)”.
)
- (3) In paragraph 5.2(r)(ii) after “(Pilot)” insert “)”.
)
- (4) In paragraph 5.3-
 - (a) in sub-paragraph (a), omit “and” the final time it appears;
 - (b) in sub-paragraph (b) for “.” substitute “; and”; and
 - (c) after sub-paragraph (b) insert-
 - “(c) in paragraph 14.1-
 - (i) in the first sentence, for “and the Child Arrangements Programme 2014 (PD12B)” substitute “and PD12B (Pilot)”; and
 - (ii) in the second sentence, for “and the Child Arrangements Programme 2014” substitute “and of PD12B (Pilot)”.

**NEW PRACTICE DIRECTION 36ZA – PILOT SCHEME: PROCEDURE FOR
NOTIFICATION TO THE POLICE BY EMAIL OF CERTAIN ORDERS MADE UNDER
PART 4 OF THE FAMILY LAW ACT 1996**

- (1) After Practice Direction 36Z, insert new Practice Direction 36ZA as set out in the Annex to this Practice Direction Update.

TRANSITIONAL PROVISION

The amendments made to Practice Directions 2A, 2C, 5A, 6A, 6C, 7A, 7B, 7C and 9A do not apply to proceedings that were issued before these amendments come into force.

ANNEX: NEW PRACTICE DIRECTION 36ZA TO BE INSERTED AFTER PRACTICE DIRECTION 36Z:

PRACTICE DIRECTION 36ZA – PILOT SCHEME: PROCEDURE FOR NOTIFICATION TO THE POLICE BY EMAIL OF CERTAIN ORDERS MADE UNDER PART 4 OF THE FAMILY LAW ACT 1996

This practice direction supplements FPR Part 36 (Transitional Arrangements and Pilot Schemes)

Scope and interpretation

- 1.1** This Practice Direction is made under rule 36.2 FPR and sets up a Pilot Scheme to allow for emails to be sent to the police notifying them when a notifiable order has been made or when a notifiable order has been served or the respondent has been otherwise informed of its terms.
- 1.2** This Practice Direction comes into force on 28 February 2022.
- 1.3** This Pilot Scheme applies where all of the following conditions are met-
- (a) there is a notifiable order made by a court sitting at a location specified in paragraph 1.4; and
 - (c) that notifiable order was made in the period commencing on 28 February 2022 and ending at the end of the day on 28 February 2023.
- 1.4** The specified locations are the family court or the High Court District Registry sitting at-
- (a) York;
 - (b) Harrogate;
 - (c) Scarborough;
 - (d) Skipton.
- 1.5** In this Practice Direction, “notifiable order” means-
- (a) a non-molestation order;
 - (b) an occupation order to which a power of arrest has been attached pursuant to section 47(2) or (3) of the 1996 Act; or
 - (c) an order varying, discharging or extending an order of a type mentioned in sub-paragraph (a) or (b).

Purpose of this Pilot Scheme

- 2.1** The purpose of this Pilot Scheme is to assess the use of new practices and procedures to allow for-
- (a) the court to email notifiable orders to the police;
 - (b) the applicant or the court to email to the police a statement of service to confirm that a notifiable order has been served, or that the respondent to whom the order applies has been informed of order’s terms.

Modification of the FPR and Practice Directions, and application of this Practice Direction, during the operation of the Pilot Scheme

- 3.1** During the operation of the Pilot Scheme, where the Pilot Scheme applies, the FPR and the Practice Directions supporting the FPR will apply-
- (a) subject to the provisions of this Practice Direction; and
 - (b) as modified by paragraphs 4.1 and 4.2.

Modification of Part 10 FPR

- 4.1** In rule 10.1-
- (a) the current wording shall form paragraph (1); and
 - (b) after paragraph (1) insert-
 - “(2) In this Part, in cases to which the Pilot Scheme in Practice Direction 36ZA applies, “notifiable order” has the meaning given in paragraph 1.5 of that Practice Direction.”.

- 4.2** For rule 10.10 substitute—

“Notifying the police by email when a notifiable order is made

10.10 (1) Where the court makes a notifiable order, notification must be given to the police force for the address of-

- (a) the applicant; and
- (b) if the court so directs, the respondent,

by the court officer emailing a copy of the order to the email address for that police force.

(2) Paragraph (1) only applies where the address of the applicant for notifiable order, or of the respondent to the application for that order (as the case may be), is in-

- (a) the North Yorkshire Police Area.

(3) The email referred to in paragraph (1) must be sent-

- (a) in the case of the North Yorkshire Police area-
 - (i) where the sender has access to the cjsm network, to PNCBureau@northyorkshire.police.uk.cjsm.net; or
 - (ii) where the sender does not have access to the cjsm network, to PNCBureau@northyorkshire.police.uk.

(4) The email referred to in paragraph (1) must be sent within 1 day of whichever is the earliest of-

- (a) the order being sealed; or
- (b) the order being approved by the judge, where the order states that it has effect despite not bearing the seal of the court.

Notifying the police by email when an order is served or the respondent is informed of its terms

10.10A (1) Subject to paragraph (2), paragraph (3) applies when the respondent has been-

(a) served with a notifiable order; or

(b) informed (whether by being present when the order was made or by telephone or otherwise) of the terms of a notifiable order.

(2) Paragraph (3) does not apply where the order states that the court has dispensed for the need for service of the order, because the court is satisfied that the respondent is aware of the terms of the order without the need for such service to be effected.

(3) A statement of service showing that the respondent has been served with, or has been informed of the terms of, the notifiable order must be sent by email to the police force to which the order was sent, in accordance with rule 10.10(3).

(4) The email referred to in paragraph (3) must be sent by-

(a) the applicant, where rule 10.6(1) applies; or

(b) the court officer, where rule 10.6(2) applies.

(5) Where paragraph (4)(a) applies-

(a) the email referred to in paragraph (3) must be sent within 2 days of the respondent being served with, or informed of the terms of, the notifiable order; and

(b) the applicant must also send the statement of service by email to the court.

(5) Where paragraph (4)(b) applies, the email referred to in paragraph (3) must be sent within 1 day of receipt by the court officer of confirmation of service, or of the person having been informed of the terms of the order, from the court bailiff.”.
