
STATUTORY INSTRUMENTS

2005 No. 2795

The Family Procedure (Adoption) Rules 2005

PART 6

SERVICE

SECTION 1

GENERAL RULES ABOUT SERVICE

Scope of this Part

34. The rules in this Part apply to the service of documents, including a document that is required to be given or sent by these Rules or any practice direction, except where—

- (a) any other enactment, a rule in another Part or a practice direction makes a different provision; or
- (b) the court directs otherwise.

Methods of service

35.—(1) Subject to paragraph (2), a document may be served—

- (a) where it is not known whether a solicitor is acting on behalf of a party—
 - (i) by delivering it to the party personally; or
 - (ii) by delivering it at, or by sending it by first class post to, the party's residence or last known residence; or
- (b) where a solicitor is known to be acting on behalf of a party—
 - (i) by delivering the document at, or sending it by first class post to, the solicitor's address for service; or
 - (ii) through a document exchange in accordance with the relevant practice direction.

(2) A notice of hearing must be served in accordance with paragraph (1)(a)(i) or (ii) irrespective of whether a solicitor is acting on behalf of a party.

(3) Where it appears to the court that there is a good reason to authorise service by a method not permitted by paragraph (1), the court may direct that service is effected by an alternative method.

(4) A direction that service is effected by an alternative method must specify—

- (a) the method of service; and
- (b) the date when the document will be deemed to be served.

Who is to serve

36.—(1) A document which has been issued or prepared by a court officer will be served by the court officer except where—

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- (a) a practice direction provides otherwise; or
- (b) the court directs otherwise.

(2) Where a court officer is to serve a document, it is for the court to decide which of the methods of service specified in rule 35(1) is to be used.

Service of documents on children and patients

37.—(1) The following table shows the person on whom a document must be served if it is a document which would otherwise be served on a child, non-subject child or patient—

Nature of party	Type of document	Person to be served
Child who is not also a patient	Any document	The solicitor acting for the child; where there is no such solicitor, the children’s guardian or the children and family reporter.
Non-subject child who is not also a patient	Application form	One of the non-subject child’s parents or guardians; if there is no parent or guardian, the person with whom the non-subject child resides or in whose care the non-subject child is.
Patient	Application form	The person authorised under Part VII of the Mental Health Act 1983(1) to conduct the proceedings in the name of the patient or on his behalf; if there is no person so authorised, the person with whom the patient resides or in whose care the patient is.
Non-subject child or patient	Application for an order appointing a litigation friend, where the non-subject child or patient has no litigation friend	See rule 57.
	Any other document	The litigation friend who is conducting proceedings on behalf of the non-subject child or patient.

- (2) Where a child is directed by the court to serve a document, service is to be effected by—
- (a) the solicitor acting for the child;

(1) 1983 c. 20.

- (b) where there is no such solicitor, the children’s guardian;
 - (c) where there is neither a solicitor or children’s guardian, the litigation friend; or
 - (d) where there is neither a solicitor, children’s guardian, or litigation friend, a court officer.
- (3) Where a non-subject child or patient is directed by the court to serve a document, service is to be effected by—
- (a) the solicitor acting for the non-subject child or patient; or
 - (b) where there is no such solicitor, the litigation friend.
- (4) The court may give directions permitting a document to be served on the child, non-subject child or patient, or on some other person other than the person specified in the table in this rule.
- (5) The court may direct that, although a document has been served on someone other than the person specified in the table, the document is to be treated as if it had been properly served.
- (6) This rule does not apply where a non-subject child is conducting proceedings without a litigation friend in accordance with rule 51.

Deemed service

38.—(1) Unless the contrary is proved, a document which is served in accordance with these Rules or any relevant practice direction will be deemed to be served on the day shown in the following table—

Method of service	Deemed day of service
First class post	The second day after it was posted.
Document exchange	The second day after it was left at the document exchange.
Delivering the document to address	The day after the document was delivered to that address.

- (2) If a document is served personally—
- (a) after 5 p.m. on a business day; or
 - (b) at any time on a day which is not a business day
- it will be treated as being served on the next business day.

Power of court to dispense with service

39. Where a rule or practice direction requires a document to be served, the court may direct that the requirement is dispensed with.

Certificate of service

40.—(1) Where a rule, practice direction or court order requires a certificate of service, the certificate must state the details set out in the following table—

Method of service	Details to be certified
Post	Date of posting.
Personal	Date of personal service.
Document exchange	Date of delivery to the document exchange.

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Method of service	Details to be certified
Delivery of document to address	Date when the document was delivered to the address.
Alternative method permitted by the court	As required by the court.

(2) Where an application form is to be served by the applicant he must file a certificate of service within 7 days beginning with the date on which the application form was served.

Notice of non-service

41. Where a person fails to serve any document under these Rules or as directed by the court he must file a certificate of non-service stating the reason why service has not been effected.