



Children and Families Act 2014

2014 CHAPTER 6

PART 2 **E+W**

FAMILY JUSTICE

13 **Control of expert evidence, and of assessments, in children proceedings** **E+W**

- (1) A person may not without the permission of the court instruct a person to provide expert evidence for use in children proceedings.
- (2) Where in contravention of subsection (1) a person is instructed to provide expert evidence, evidence resulting from the instructions is inadmissible in children proceedings unless the court rules that it is admissible.
- (3) A person may not without the permission of the court cause a child to be medically or psychiatrically examined or otherwise assessed for the purposes of the provision of expert evidence in children proceedings.
- (4) Where in contravention of subsection (3) a child is medically or psychiatrically examined or otherwise assessed, evidence resulting from the examination or other assessment is inadmissible in children proceedings unless the court rules that it is admissible.
- (5) In children proceedings, a person may not without the permission of the court put expert evidence (in any form) before the court.
- (6) The court may give permission as mentioned in subsection (1), (3) or (5) only if the court is of the opinion that the expert evidence is necessary to assist the court to resolve the proceedings justly.
- (7) When deciding whether to give permission as mentioned in subsection (1), (3) or (5) the court is to have regard in particular to—
 - (a) any impact which giving permission would be likely to have on the welfare of the children concerned, including in the case of permission as mentioned in subsection (3) any impact which any examination or other assessment would

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- be likely to have on the welfare of the child who would be examined or otherwise assessed,
- (b) the issues to which the expert evidence would relate,
 - (c) the questions which the court would require the expert to answer,
 - (d) what other expert evidence is available (whether obtained before or after the start of proceedings),
 - (e) whether evidence could be given by another person on the matters on which the expert would give evidence,
 - (f) the impact which giving permission would be likely to have on the timetable for, and duration and conduct of, the proceedings,
 - (g) the cost of the expert evidence, and
 - (h) any matters prescribed by Family Procedure Rules.
- (8) References in this section to providing expert evidence, or to putting expert evidence before a court, do not include references to—
- (a) the provision or giving of evidence—
 - (i) by a person who is a member of the staff of a local authority or of an authorised applicant,
 - (ii) in proceedings to which the authority or authorised applicant is a party, and
 - (iii) in the course of the person's work for the authority or authorised applicant,
 - (b) the provision or giving of evidence—
 - (i) by a person within a description prescribed for the purposes of subsection (1) of section 94 of the Adoption and Children Act 2002 (suitability for adoption etc.), and
 - (ii) about the matters mentioned in that subsection,
 - (c) the provision or giving of evidence by an officer of the Children and Family Court Advisory and Support Service when acting in that capacity, or
 - (d) the provision or giving of evidence by a Welsh family proceedings officer (as defined by section 35(4) of the Children Act 2004) when acting in that capacity.
- (9) In this section—
- “authorised applicant” means—
 - (a) the National Society for the Prevention of Cruelty to Children, or
 - (b) a person authorised by an order under section 31 of the Children Act 1989 to bring proceedings under that section;
 - “child” means a person under the age of 18;
 - “children proceedings” has such meaning as may be prescribed by Family Procedure Rules;
 - “the court”, in relation to any children proceedings, means the court in which the proceedings are taking place;
 - “local authority”—
 - (a) in relation to England means—
 - (i) a county council,
 - (ii) a district council for an area for which there is no county council,
 - (iii) a London borough council,
 - (iv) the Common Council of the City of London, or

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- (v) the Council of the Isles of Scilly, and
 - (b) in relation to Wales means a county council or a county borough council.
- (10) The preceding provisions of this section are without prejudice to sections 75 and 76 of the Courts Act 2003 (power to make Family Procedure Rules).
- (11) In section 38 of the Children Act 1989 (court's power to make interim care and supervision orders, and to give directions as to medical examination etc. of children) after subsection (7) insert—
- “(7A) A direction under subsection (6) to the effect that there is to be a medical or psychiatric examination or other assessment of the child may be given only if the court is of the opinion that the examination or other assessment is necessary to assist the court to resolve the proceedings justly.
- (7B) When deciding whether to give a direction under subsection (6) to that effect the court is to have regard in particular to—
- (a) any impact which any examination or other assessment would be likely to have on the welfare of the child, and any other impact which giving the direction would be likely to have on the welfare of the child,
 - (b) the issues with which the examination or other assessment would assist the court,
 - (c) the questions which the examination or other assessment would enable the court to answer,
 - (d) the evidence otherwise available,
 - (e) the impact which the direction would be likely to have on the timetable, duration and conduct of the proceedings,
 - (f) the cost of the examination or other assessment, and
 - (g) any matters prescribed by Family Procedure Rules.”

Commencement Information

II S. 13 in force at 22.4.2014 by S.I. 2014/793, art. 2 (with transitional provisions in S.I. 2014/1042, arts. 5, 11)

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