
STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 16

**REPRESENTATION OF CHILDREN AND REPORTS
IN PROCEEDINGS INVOLVING CHILDREN**

CHAPTER 1

APPLICATION OF THIS PART

Application of this Part

16.1. This Part—

- (a) sets out when the court will make a child a party in family proceedings; and
- (b) contains special provisions which apply in proceedings involving children.

CHAPTER 2

CHILD AS PARTY IN FAMILY PROCEEDINGS

When the court may make a child a party to proceedings

16.2.—(1) The court may make a child a party to proceedings if it considers it is in the best interests of the child to do so.

- (2) This rule does not apply to a child who is the subject of proceedings—
- (a) which are specified proceedings; or
 - (b) to which Part 14 applies.

(The Practice Direction 16A sets out the matters which the court will take into consideration before making a child a party under this rule.)

CHAPTER 3

WHEN A CHILDREN'S GUARDIAN OR LITIGATION FRIEND WILL BE APPOINTED

Appointment of a children's guardian in specified proceedings or proceedings to which Part 14 applies

16.3.—(1) Unless it is satisfied that it is not necessary to do so to safeguard the interests of the child, the court must appoint a children's guardian for a child who is—

- (a) the subject of; and
- (b) a party to,

proceedings—

- (i) which are specified proceedings; or

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The Family Procedure Rules 2010, PART 16. (See end of Document for details)*

(ii) to which Part 14 applies.

(Rules 12.6 and 14.6 set out the point in the proceedings when the court will appoint a children's guardian in specified proceedings and proceedings to which Part 14 applies respectively.)

(2) At any stage in the proceedings—

(a) a party may apply, without notice to the other parties unless the court directs otherwise, for the appointment of a children's guardian; or

(b) the court may of its own initiative appoint a children's guardian.

(3) Where the court refuses an application under paragraph (2)(a) it will give reasons for the refusal and the court or a court officer will—

(a) record the refusal and the reasons for it; and

(b) as soon as practicable, notify the parties and either the Service or the Assembly of a decision not to appoint a children's guardian.

(4) When appointing a children's guardian the court will consider the appointment of anyone who has previously acted as a children's guardian of the same child.

(5) Where the court appoints a children's guardian in accordance with this rule, the provisions of Chapter 6 of this Part apply.

Appointment of a children's guardian in proceedings not being specified proceedings or proceedings to which Part 14 applies

16.4.—(1) Without prejudice to rule 8.42 or 16.6, the court must appoint a children's guardian for a child who is the subject of proceedings, which are not proceedings of a type referred to in rule 16.3(1), if—

(a) the child is an applicant in the proceedings;

(b) a provision in these rules provides for the child to be a party to the proceedings; or

(c) the court has made the child a party in accordance with rule 16.2.

(2) The provisions of Chapter 7 of this Part apply where the appointment of a children's guardian is required in accordance with paragraph (1). (“children's guardian” is defined in rule 2.3.)

Requirement for a litigation friend

16.5.—(1) Without prejudice to rule 16.6, where a child is—

(a) a party to proceedings; but

(b) not the subject of those proceedings,

the child must have a litigation friend to conduct proceedings on the child's behalf.

(2) The provisions of Chapter 5 of this Part apply where a litigation friend is required in accordance with paragraph (1).

CHAPTER 4

WHERE A CHILDREN'S GUARDIAN OR LITIGATION FRIEND IS NOT REQUIRED

Circumstances in which a child does not need a children's guardian or litigation friend

16.6.—(1) Subject to paragraph (2), a child may conduct proceedings without a children's guardian or litigation friend where the proceedings are proceedings—

(a) under the 1989 Act;

(b) to which Part 11 (applications under Part 4A of the Family Law Act 1996) or Part 14 (applications in adoption, placement and related proceedings) of these rules apply; or
(c) relating to the exercise of the court's inherent jurisdiction with respect to children, and one of the conditions set out in paragraph (3) is satisfied.

(2) Paragraph (1) does not apply where the child is the subject of and a party to proceedings—

(a) which are specified proceedings; or

(b) to which Part 14 applies.

(3) The conditions referred to in paragraph (1) are that either—

(a) the child has obtained the court's permission; or

(b) a solicitor—

(i) considers that the child is able, having regard to the child's understanding, to give instructions in relation to the proceedings; and

(ii) has accepted instructions from that child to act for that child in the proceedings and, if the proceedings have begun, the solicitor is already acting.

(4) An application for permission under paragraph (3)(a) may be made by the child without notice.

(5) Where a child—

(a) has a litigation friend or children's guardian in proceedings to which this rule applies; and

(b) wishes to conduct the remaining stages of the proceedings without the litigation friend or children's guardian,

the child may apply to the court, on notice to the litigation friend or children's guardian, for permission for that purpose and for the removal of the litigation friend or children's guardian.

(6) The court will grant an application under paragraph (3)(a) or (5) if it considers that the child has sufficient understanding to conduct the proceedings concerned or proposed without a litigation friend or children's guardian.

(7) In exercising its powers under paragraph (6) the court may require the litigation friend or children's guardian to take such part in the proceedings as the court directs.

(8) The court may revoke any permission granted under paragraph (3)(a) where it considers that the child does not have sufficient understanding to participate as a party in the proceedings concerned without a litigation friend or children's guardian.

(9) Where a solicitor is acting for a child in proceedings without a litigation friend or children's guardian by virtue of paragraph (3)(b) and either of the conditions specified in paragraph (3)(b)(i) or (ii) cease to be fulfilled, the solicitor must inform the court immediately.

(10) Where—

(a) the court revokes any permission under paragraph (8); or

(b) either of the conditions specified in paragraph (3)(b)(i) or (ii) is no longer fulfilled,

the court may, if it considers it necessary in order to protect the interests of the child concerned, appoint a person to be that child's litigation friend or children's guardian.

CHAPTER 5

LITIGATION FRIEND

Application of this Chapter

16.7. This Chapter applies where a child must have a litigation friend to conduct proceedings on the child's behalf in accordance with rule 16.5.

Stage of proceedings at which a litigation friend becomes necessary

16.8.—(1) This rule does not apply in relation to a child who is conducting proceedings without a litigation friend in accordance with rule 16.6.

(2) A person may not without the permission of the court take any step in proceedings except—

(a) filing an application form; or

(b) applying for the appointment of a litigation friend under rule 16.11,

until the child has a litigation friend.

(3) Any step taken before a child has a litigation friend has no effect unless the court orders otherwise.

Who may be a litigation friend for a child without a court order

16.9.—(1) This rule does not apply if the court has appointed a person to be a litigation friend.

(2) A person may act as a litigation friend if that person—

(a) can fairly and competently conduct proceedings on behalf of the child;

(b) has no interest adverse to that of the child; and

(c) subject to paragraph (3), undertakes to pay any costs which the child may be ordered to pay in relation to the proceedings, subject to any right that person may have to be repaid from the assets of the child.

(3) Paragraph (2)(c) does not apply to the Official Solicitor, an officer of the Service or a Welsh family proceedings officer.

How a person becomes a litigation friend without a court order

16.10.—(1) If the court has not appointed a litigation friend, a person who wishes to act as such must file a certificate of suitability stating that that person satisfies the conditions specified in rule 16.9(2).

(2) The certificate of suitability must be filed at the time when the person who wishes to act as litigation friend first takes a step in the proceedings on behalf of the child.

(3) A court officer will send the certificate of suitability to every person on whom, in accordance with rule 6.28, the application form should be served.

(4) This rule does not apply to the Official Solicitor, an officer of the Service or a Welsh family proceedings officer.

Appointment of litigation friend by the court

16.11.—(1) The court may, if the person to be appointed consents, make an order appointing as a litigation friend—

(a) the Official Solicitor;

(b) an officer of the Service or a Welsh family proceedings officer; or

(c) some other person.

(2) An order appointing a litigation friend may be made by the court of its own initiative or on the application of—

(a) a person who wishes to be a litigation friend; or

(b) a party to the proceedings.

(3) The court may at any time direct that a party make an application for an order under paragraph (2).

(4) An application for an order appointing a litigation friend must be supported by evidence.

(5) Unless the court directs otherwise, a person appointed under this rule to be a litigation friend for a child will be treated as a party for the purpose of any provision in these rules requiring a document to be served on, or sent to, or notice to be given to, a party to the proceedings.

(6) Subject to rule 16.9(3), the court may not appoint a litigation friend under this rule unless it is satisfied that the person to be appointed complies with the conditions specified in rule 16.9(2).

(7) This rule is without prejudice to rule 16.6.

Court's power to change litigation friend and to prevent person acting as litigation friend

16.12.—(1) The court may—

- (a) direct that a person may not act as a litigation friend;
- (b) terminate a litigation friend's appointment; or
- (c) appoint a new litigation friend in substitution for an existing one.

(2) An application for an order or direction under paragraph (1) must be supported by evidence.

(3) Subject to rule 16.9(3), the court may not appoint a litigation friend under this rule unless it is satisfied that the person to be appointed complies with the conditions specified in rule 16.9(2).

Appointment of litigation friend by court order – supplementary

16.13.—(1) A copy of the application for an order under rule 16.11 or 16.12 must be sent by a court officer to every person on whom, in accordance with rule 6.28, the application form should be served.

(2) A copy of an application for an order under rule 16.12 must also be sent to—

- (a) the person who is the litigation friend, or who is purporting to act as the litigation friend when the application is made; and
- (b) the person, if not the applicant, who it is proposed should be the litigation friend.

Powers and duties of litigation friend

16.14.—(1) The litigation friend—

- (a) has the powers and duties set out in Practice Direction 16A; and
- (b) must exercise those powers and duties in accordance with Practice Direction 16A.

(2) Where the litigation friend is an officer of the Service or a Welsh family proceedings officer, rule 16.20 applies as it applies to a children's guardian appointed in accordance with Chapter 6.

Procedure where appointment of litigation friend comes to an end

16.15.—(1) When a child who is not a protected party reaches the age of 18, a litigation friend's appointment comes to an end.

(2) A court officer will send a notice to the other parties stating that the appointment of the child's litigation friend to act has ended.

CHAPTER 6

CHILDREN'S GUARDIAN APPOINTED UNDER RULE 16.3

Application of this Chapter

16.16. This Chapter applies where the court must appoint a children's guardian in accordance with rule 16.3.

Who may be a children's guardian

16.17. Where the court is appointing a children's guardian under rule 16.3 it will appoint an officer of the Service or a Welsh family proceedings officer.

What the court or a court officer will do once the court has made a decision about appointing a children's guardian

16.18.—(1) Where the court appoints a children's guardian under rule 16.3 a court officer will record the appointment and, as soon as practicable, will—

- (a) inform the parties and either the Service or the Assembly; and
- (b) unless it has already been sent, send the children's guardian a copy of the application and copies of any document filed with the court in the proceedings.

(2) A court officer has a continuing duty to send the children's guardian a copy of any other document filed with the court during the course of the proceedings.

Termination of the appointment of the children's guardian

16.19.—(1) The appointment of a children's guardian under rule 16.3 continues for such time as is specified in the appointment or until terminated by the court.

(2) When terminating an appointment in accordance with paragraph (1), the court will give reasons for doing so, a note of which will be taken by the court or a court officer.

Powers and duties of the children's guardian

16.20.—(1) The children's guardian is to act on behalf of the child upon the hearing of any application in proceedings to which this Chapter applies with the duty of safeguarding the interests of the child.

(2) The children's guardian must also provide the court with such other assistance as it may require.

(3) The children's guardian, when carrying out duties in relation to specified proceedings, other than placement proceedings, must have regard to the principle set out in section 1(2) and the matters set out in section 1(3)(a) to (f) of the 1989 Act as if for the word “court” in that section there were substituted the words “children's guardian”.

(4) The children's guardian, when carrying out duties in relation to proceedings to which Part 14 applies, must have regard to the principle set out in section 1(3) and the matters set out in section 1(4)(a) to (f) of the 2002 Act as if for the word “court” in that section there were substituted the words “children's guardian”.

(5) The children's guardian's duties must be exercised in accordance with Practice Direction 16A.

(6) A report to the court by the children's guardian is confidential.

Where the child instructs a solicitor or conducts proceedings on the child's own behalf

- 16.21.**—(1) Where it appears to the children's guardian that the child—
- (a) is instructing a solicitor direct; or
 - (b) intends to conduct and is capable of conducting the proceedings on that child's own behalf,
- the children's guardian must inform the court of that fact.
- (2) Where paragraph (1) applies the children's guardian—
- (a) must perform such additional duties as the court may direct;
 - (b) must take such part in the proceedings as the court may direct; and
 - (c) may, with the permission of the court, have legal representation in the conduct of those duties.

CHAPTER 7

CHILDREN'S GUARDIAN APPOINTED UNDER RULE 16.4

Application of this Chapter

- 16.22.** This Chapter applies where the court must appoint a children's guardian under rule 16.4.

Stage of proceedings at which a children's guardian becomes necessary

- 16.23.**—(1) This rule does not apply in relation to a child who is conducting proceedings without a children's guardian in accordance with rule 16.6.
- (2) A person may not without the permission of the court take any step in proceedings except—
- (a) filing an application form; or
 - (b) applying for the appointment of a children's guardian under rule 16.24,
- until the child has a children's guardian.
- (3) Any step taken before a child has a children's guardian has no effect unless the court orders otherwise.

Appointment of a children's guardian

- 16.24.**—(1) The court may make an order appointing as a children's guardian, an officer of the Service or a Welsh family proceedings officer or, if the person to be appointed consents —
- (a) a person other than the Official Solicitor; or
 - (b) the Official Solicitor.
- (2) An order appointing a children's guardian may be made by the court of its own initiative or on the application of—
- (a) a person who wishes to be a children's guardian; or
 - (b) a party to the proceedings.
- (3) The court may at any time direct that a party make an application for an order under paragraph (2).
- (4) An application for an order appointing a children's guardian must be supported by evidence.
- (5) The court may not appoint a children's guardian under this rule unless it is satisfied that that person—
- (a) can fairly and competently conduct proceedings on behalf of the child;

- (b) has no interest adverse to that of the child; and
- (c) subject to paragraph (6), undertakes to pay any costs which the child may be ordered to pay in relation to the proceedings, subject to any right that person may have to be repaid from the assets of the child.

(6) Paragraph (5)(c) does not apply to the Official Solicitor, an officer of the Service or a Welsh family proceedings officer.

(7) This rule is without prejudice to rule 16.6 and rule 9.11. (Rule 9.11 provides for a child to be separately represented in certain applications for a financial remedy.)

Court's power to change children's guardian and to prevent person acting as children's guardian

16.25.—(1) The court may—

- (a) direct that a person may not act as a children's guardian;
- (b) terminate the appointment of a children's guardian; or
- (c) appoint a new children's guardian in substitution for an existing one.

(2) An application for an order or direction under paragraph (1) must be supported by evidence.

(3) Subject to rule 16.24(6), the court may not appoint a children's guardian under this rule unless it is satisfied that the person to be appointed complies with the conditions specified in rule 16.24(5).

Appointment of children's guardian by court order – supplementary

16.26.—(1) A copy of the application for an order under rule 16.24 or 16.25 must be sent by a court officer to every person on whom, in accordance with rule 6.28, the application form should be served.

(2) A copy of an application for an order under rule 16.25 must also be sent to—

- (a) the person who is the children's guardian, or who is purporting to act as the children's guardian when the application is made; and
- (b) the person, if not the applicant, who it is proposed should be the children's guardian.

Powers and duties of children's guardian

16.27.—(1) The children's guardian—

- (a) has the powers and duties set out in Practice Direction 16A; and
- (b) must exercise those powers and duties in accordance with Practice Direction 16A.

(2) Where the children's guardian is an officer of the Service or a Welsh family proceedings officer, rule 16.20 applies to a children's guardian appointed in accordance with this Chapter as it applies to a children's guardian appointed in accordance with Chapter 6.

Procedure where appointment of children's guardian comes to an end

16.28.—(1) When a child reaches the age of 18, the appointment of a children's guardian comes to an end.

(2) A court officer will send a notice to the other parties stating that the appointment of the child's children's guardian to act has ended.

CHAPTER 8

DUTIES OF SOLICITOR ACTING FOR THE CHILD

Solicitor for child

16.29.—(1) Subject to paragraphs (2) and (4), a solicitor appointed—

- (a) under section 41(3) of the 1989 Act; or
- (b) by the children's guardian in accordance with the Practice Direction 16A,

must represent the child in accordance with instructions received from the children's guardian.

(2) If a solicitor appointed as mentioned in paragraph (1) considers, having taken into account the matters referred to in paragraph (3), that the child—

- (a) wishes to give instructions which conflict with those of the children's guardian; and
- (b) is able, having regard to the child's understanding, to give such instructions on the child's own behalf,

the solicitor must conduct the proceedings in accordance with instructions received from the child.

(3) The matters the solicitor must take into account for the purposes of paragraph (2) are—

- (a) the views of the children's guardian; and
- (b) any direction given by the court to the children's guardian concerning the part to be taken by the children's guardian in the proceedings.

(4) Where—

- (a) no children's guardian has been appointed; and
- (b) the condition in section 41(4)(b) of the 1989 Act is satisfied,

a solicitor appointed under section 41(3) of the 1989 Act must represent the child in accordance with instructions received from the child.

(5) Where a solicitor appointed as mentioned in paragraph (1) receives no instructions under paragraphs (1), (2) or (4), the solicitor must represent the child in furtherance of the best interests of the child.

(6) A solicitor appointed under section 41(3) of the 1989 Act or by the children's guardian in accordance with Practice Direction 16A must serve documents, and accept service of documents, on behalf of the child in accordance with rule 6.31 and, where the child has not been served separately and has sufficient understanding, advise the child of the contents of any document so served.

(7) Where the child wishes an appointment of a solicitor—

- (a) under section 41(3) of the 1989 Act; or
- (b) by the children's guardian in accordance with the Practice Direction 16A,

to be terminated—

- (i) the child may apply to the court for an order terminating the appointment; and
- (ii) the solicitor and the children's guardian will be given an opportunity to make representations.

(8) Where the children's guardian wishes an appointment of a solicitor under section 41(3) of the 1989 Act to be terminated—

- (a) the children's guardian may apply to the court for an order terminating the appointment; and
- (b) the solicitor and, if of sufficient understanding, the child, will be given an opportunity to make representations.

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(9) When terminating an appointment in accordance with paragraph (7) or (8), the court will give its reasons for so doing, a note of which will be taken by the court or a court officer.

(10) The court or a court officer will record the appointment under section 41(3) of the 1989 Act or the refusal to make the appointment.

CHAPTER 9 REPORTING OFFICER

When the court appoints a reporting officer

16.30. In proceedings to which Part 14 applies, the court will appoint a reporting officer where—

- (a) it appears that a parent or guardian of the child is willing to consent to the placing of the child for adoption, to the making of an adoption order or to a section 84 order; and
- (b) that parent or guardian is in England or Wales.

Appointment of the same reporting officer in respect of two or more parents or guardians

16.31. The same person may be appointed as the reporting officer for two or more parents or guardians of the child.

The duties of the reporting officer

16.32.—(1) The reporting officer must witness the signature by a parent or guardian on the document in which consent is given to—

- (a) the placing of the child for adoption;
 - (b) the making of an adoption order; or
 - (c) the making of a section 84 order.
- (2) The reporting officer must carry out such other duties as are set out in Practice Direction 16A.
- (3) A report to the court by the reporting officer is confidential.
- (4) The reporting officer's duties must be exercised in accordance with Practice Direction 16A.

CHAPTER 10 CHILDREN AND FAMILY REPORTER AND WELFARE OFFICER

Request by court for a welfare report in respect of the child

16.33.—(1) Where the court is considering an application for an order in proceedings, the court may ask—

- (a) in proceedings to which Parts 12 and 14 apply, a children and family reporter; or
- (b) in proceedings to which Part 12 applies, a welfare officer,

to prepare a report on matters relating to the welfare of the child, and, in this rule, the person preparing the report is called “the officer”.

- (2) It is the duty of the officer to—
- (a) comply with any request for a report under this rule; and
 - (b) provide the court with such other assistance as it may require.
- (3) A report to the court under this rule is confidential.

(4) The officer, when carrying out duties in relation to proceedings under the 1989 Act, must have regard to the principle set out in section 1(2) and the matters set out in section 1(3)(a) to (f)

of that Act as if for the word “court” in that section there were substituted the words “children and family reporter” or “welfare officer” as the case may be.

(5) A party may question the officer about oral or written advice tendered by that officer to the court.

(6) The court officer will notify the officer of a direction given at a hearing at which—

- (a) the officer is not present; and
- (b) the welfare report is considered.

(7) The officer's duties must be exercised in accordance with Practice Direction 16A (“children and family reporter” and “welfare officer” are defined in rule 2.3)

CHAPTER 11

PARENTAL ORDER REPORTER

When the court appoints a parental order reporter

16.34. In proceedings to which Part 13 applies, the court will appoint a parental order reporter in accordance with rule 13.5.

Powers and duties of the parental order reporter

16.35.—(1) The parental order reporter is to act on behalf of the child upon the hearing of any application in proceedings to which Part 13 applies with the duty of safeguarding the interests of the child.

(2) The parental order reporter must—

- (a) investigate the matters set out in sections 54(1) to (8) of the 2008 Act;
- (b) so far as the parental order reporter considers necessary, investigate any matter contained in the application form or other matter which appears relevant to the making of the parental order; and
- (c) advise the court on whether there is any reason under section 1 of the 2002 Act (as applied with modifications by the Human Fertilisation and Embryology (Parental Orders) Regulations 2010) to refuse the parental order.

(3) The parental order reporter must also provide the court with such other assistance as it may require.

(4) The parental order reporter's duties must be exercised in accordance with Practice Direction 16A.

(5) A report to the court by the parental order reporter is confidential.

CHAPTER 12

SUPPLEMENTARY APPOINTMENT PROVISIONS

Persons who may not be appointed as children's guardian, reporting officer or children and family reporter

16.36.—(1) In [F1specified proceedings (except where paragraph (2) applies),] adoption proceedings or proceedings for a section 84 order or a section 89 order, no person may be appointed as a children's guardian, reporting officer or children and family reporter who—

- (a) is a member, officer or servant of a local authority which is a party to the proceedings;

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- (b) is, or has been, a member, officer or servant of a local authority or voluntary organisation who has been directly concerned in that capacity in arrangements relating to the care, accommodation or welfare of the child during the 5 years prior to the start of the proceedings; or
 - (c) is a serving probation officer who has, in that capacity, been previously concerned with the child or the child's family.
- (2) In placement proceedings, a person described in paragraph (1)(b) or (c) may not be appointed as a children's guardian, reporting officer or children and family reporter.

Textual Amendments

- F1** Words in rule 16.36(1) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **23** (with rule 30)

Appointment of the same person as children's guardian, reporting officer and children and family reporter

- 16.37.** The same person may be appointed to act as one or more of the following—
- (a) the children's guardian;
 - (b) the reporting officer; and
 - (c) the children and family reporter.

CHAPTER 13

OFFICERS OF THE SERVICE, WELSH FAMILY PROCEEDINGS OFFICERS AND LOCAL AUTHORITY OFFICERS: FURTHER DUTIES

Officers of the Service, Welsh family proceedings officers and local authority officers acting under certain duties

- 16.38.**—(1) This rule applies when—
- (a) an officer of the Service or a Welsh family proceedings officer is acting under a duty in accordance with—
 - (i) section 11E(7) of the 1989 Act ^{M1} (providing the court with information as to the making of [^{F2}an] activity direction or [^{F2}an] activity condition);
 - (ii) section 11G(2) of the 1989 Act ^{M2} (monitoring compliance with [^{F3}an] activity direction or [^{F3}an] activity condition);
 - (iii) section 11H(2) of the 1989 Act ^{M3} (monitoring compliance with a [^{F4}child arrangements] order);
 - (iv) section 11L(5) of the 1989 Act (providing the court with information as to the making of an enforcement order);
 - (v) section 11M(1) of the 1989 Act (monitoring compliance with an enforcement order);
 - (vi) section 16(6) of the 1989 Act ^{M4} (providing a report to the court in accordance with a direction in a family assistance order); and
 - (vii) section 16A of the 1989 Act ^{M5} (making a risk assessment); and

- (b) a local authority officer is acting under a duty in accordance with section 16(6) of the 1989 Act (providing a report to the court in accordance with a direction in a family assistance order).
- (2) In this rule,—
- (a) “^{F5}... activity direction”, “^{F5}... activity condition” and “enforcement order” have the meanings given in rule 12.2; and
- (b) references to “the officer” are to the officer of the Service, Welsh family proceedings officer or local authority officer referred to in paragraph (1).
- (3) In exercising the duties referred to in paragraph (1), the officer must have regard to the principle set out in section 1(2) of the 1989 Act and the matters set out in section 1(3)(a) to (f) of the 1989 Act as if for the word “court” in that section there were substituted the words “officer of the Service, Welsh family proceedings officer or local authority officer”.
- (4) The officer's duties referred to in paragraph (1) must be exercised in accordance with Practice Direction 16A.

Textual Amendments

- F2** Word in rule 16.38(1)(a)(i) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **40(a)**
- F3** Word in rule 16.38(1)(a)(ii) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **40(b)**
- F4** Words in rule 16.38(1)(a)(iii) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **40(c)**
- F5** Word in rule 16.38(2)(a) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **41**

Marginal Citations

- M1** [Section 11E](#) was inserted by section 1 of the Children and Adoption Act 2006.
- M2** [Section 11G](#) was inserted by section 1 of the Children and Adoption Act 2006.
- M3** [Section 11H](#) was inserted by section 1 of the Children and Adoption Act 2006.
- M4** [Section 16\(6\)](#) was amended by section 6(1) and (5) of the Children and Adoption Act 2006.
- M5** [Section 16A](#) was inserted by section 7 of the Children and Adoption Act 2006.

CHAPTER 14

ENFORCEMENT ORDERS AND FINANCIAL COMPENSATION ORDERS: PERSONS NOTIFIED

Application for enforcement orders and financial compensation orders: duties of the person notified

16.39.—(1) This rule applies where a person who was the child's children's guardian, litigation friend or legal representative in the proceedings in which a [^{F6}child arrangements] order was made has been notified of an application for an enforcement order or for a financial compensation order as required by Practice Direction 12C.

- (2) The person who has been notified of the application must—
- (a) consider whether it is in the best interests of the child for the child to be made a party to the proceedings for an enforcement order or a financial compensation order (as applicable); and

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Changes to legislation: There are currently no known outstanding effects for the
The Family Procedure Rules 2010, PART 16. (See end of Document for details)

(b) before the date fixed for the first hearing in the case notify the court, orally or in writing, of the opinion reached on the question, together with the reasons for this opinion.

(3) In this rule, “enforcement order” and “financial compensation order” have the meanings given in rule 12.2.

Textual Amendments

F6 Words in rule 16.39(1) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, 42

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Changes to legislation:

There are currently no known outstanding effects for the The Family Procedure Rules 2010, PART 16.