

2001 No. 820 (L. 17)

MAGISTRATES' COURTS, ENGLAND AND WALES

**The Magistrates' Courts (Adoption) (Amendment)
Rules 2001**

Made - - - - - *6th March 2001*

Laid before Parliament *9th March 2001*

Coming into force - - *1st April 2001*

The Lord Chancellor, in exercise of the powers conferred on him by section 144 of the Magistrates' Courts Act 1980(a), after consultation with the Rule Committee appointed under that section, hereby makes the following Rules:

1. These Rules may be cited as the Magistrates' Courts (Adoption) (Amendment) Rules 2001 and shall come into force on 1st April 2001.

2. The Magistrates' Courts (Adoption) Rules 1984(b) ("the 1984 Rules") shall be amended in accordance with the following provisions of these Rules and, in those provisions, any reference to a rule or Schedule by number alone shall be construed as a reference to the rule or Schedule so numbered in the 1984 Rules.

3. In—

- (a) the provisions of the 1984 Rules; and
 - (b) the forms contained in Schedule 1,
- for "guardian ad litem" substitute "children's guardian".

4. In rule 2(1), at the appropriate places, insert—

"“children's guardian” means an officer of the service appointed to act on behalf of the child in accordance with section 65(1)(a) of the 1976 Act(c);”;

"“reporting officer” means an officer of the service appointed in accordance with section 65(1)(b) of the 1976 Act;”.

5. In rule 5, for paragraph (3) substitute—

"(3) The reporting officer shall not be a member or employee of the applicant or any respondent body nor have been involved in the making of any arrangements for the adoption of the child.”.

6. In rule 6, for paragraph (4) substitute—

"(4) The children's guardian shall not be a member or employee of the applicant or any respondent body nor have been involved in the making of any arrangements for the adoption of the child.”.

(a) 1980 c. 43; section 144 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 25 and by the Access to Justice Act 1999 (c. 22), Schedule 11, paragraphs 26 and 29 and extended by the Adoption Act 1976 (c. 36), section 66(2).

(b) S.I. 1984/611 amended by S.I. 1989/384 and 1991/1880 and 1991.

(c) The Adoption Act 1976 (c. 36); section 65 is amended by the Criminal Justice and Court Services Act 2000 (c. 43), Schedule 7, Part II, paragraphs 51 and 52 and Schedule 8.

7. In rule 17, for paragraph (3) substitute—
“(3) The reporting officer shall not be a member or employee of the applicant or any respondent body (except where a local authority is made a respondent only under rule 15(2)(d)) nor have been involved in the making of any arrangements for the adoption of the child.”.
8. In rule 18, for paragraph (4) substitute—
“(4) The children’s guardian shall not be a member or employee of the applicant or any respondent body (except where a local authority is made a respondent only under rule 15(2)(d)) nor have been involved in the making of any arrangements for the adoption of the child.”.
9. After rule 28 insert—
“**28A Power of court to limit cross-examination**
The court may limit the issues on which a children’s guardian or a reporting officer may be cross-examined.”.
10. In rule 32, after paragraph (5), insert a new paragraph as follows—
“(5A) Nothing in this rule shall prevent the disclosure of a document prepared by an officer of the service for the purpose of—
(a) enabling a person to perform functions required under section 62(3A) of the Justices of the Peace Act 1997(a); and
(b) assisting an officer of the service who is appointed by the court under any enactment to perform his functions.
(5B) Nothing in this rule shall prevent the disclosure of any document relating to proceedings by an officer of the service to any other officer of the service unless that other officer is involved in the same proceedings but on behalf of a different party.”.
11. Where—
(a) before the coming into force of these Rules a person had been appointed as guardian ad litem in proceedings in accordance with section 65 of the Adoption Act 1976; and
(b) those proceedings are still continuing,
that person shall, for the purposes of the application of the 1984 Rules, be treated as if he had been appointed children’s guardian.
12. Where—
(a) before the coming into force of these Rules a person had been appointed as reporting officer in proceedings in accordance with section 65 of the Adoption Act 1976; and
(b) those proceedings are still continuing,
that person shall, for the purposes of the application of the 1984 Rules, continue to be treated as the reporting officer in the proceedings.

Irvine of Lairg, C.

Dated 6th March 2001

(a) 1997 c. 25; section 62(3A) is inserted by the Criminal Justice and Court Services Act 2000 (c. 43), section 17(1).

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Adoption) Rules 1984 following the establishment of the Children and Family Court Advisory and Support Service ("CAFCASS") by the Criminal Justice and Court Services Act 2000 (c. 43). The term "guardian ad litem" is replaced by "children's guardian". The children's guardian and the reporting officer must be officers of CAFCASS. The provisions relating to disclosure of documents have been amended to facilitate inspection of CAFCASS and also to allow disclosure where this would assist an officer of the service to perform any of his functions. Power is given to the court to limit the issues on which a children's guardian or reporting officer may be cross-examined.

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