
STATUTORY INSTRUMENTS

2017 No. 1035

The Court of Protection Rules 2017

PART 1

THE OVERRIDING OBJECTIVE

Participation of P

1.2.—(1) The court must in each case, on its own initiative or on the application of any person, consider whether it should make one or more of the directions in paragraph (2), having regard to—

- (a) the nature and extent of the information before the court;
- (b) the issues raised in the case;
- (c) whether a matter is contentious; and
- (d) whether P has been notified in accordance with the provisions of Part 7 and what, if anything, P has said or done in response to such notification.

(2) The directions are that—

- (a) P should be joined as a party;
- (b) P's participation should be secured by the appointment of an accredited legal representative to represent P in the proceedings and to discharge such other functions as the court may direct;
- (c) P's participation should be secured by the appointment of a representative whose function shall be to provide the court with information as to the matters set out in section 4(6) of the Act and to discharge such other functions as the court may direct;
- (d) P should have the opportunity to address (directly or indirectly) the judge determining the application and, if so directed, the circumstances in which that should occur;
- (e) P's interests and position can properly be secured without any direction under subparagraphs (a) to (d) being made or by the making of an alternative direction meeting the overriding objective.

(3) Any appointment or directions made pursuant to paragraph (2)(b) to (e) may be made for such period or periods as the court thinks fit.

(4) Unless P has capacity to conduct the proceedings, an order joining P as a party shall only take effect—

- (a) on the appointment of a litigation friend on P's behalf; or
- (b) if the court so directs, on or after the appointment of an accredited legal representative.

(5) If the court has directed that P should be joined as a party but such joinder does not occur because no litigation friend or accredited legal representative is appointed, the court shall record in a judgment or order—

- (a) the fact that no such appointment was made; and
- (b) the reasons given for that appointment not being made.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) A practice direction may make additional or supplementary provision in respect of any of the matters set out in this rule.

(The appointment of litigation friends, accredited legal representatives and representatives under paragraph (2)(c) is dealt with under Part 17.)

(“Accredited legal representative” is defined in rule 2.1.)