

---

STATUTORY INSTRUMENTS

---

**2017 No. 1035 (L. 16)**

**MENTAL CAPACITY, ENGLAND AND WALES**

**The Court of Protection Rules 2017**

*Made* - - - - - *26th October 2017*  
*Laid before Parliament* *30th October 2017*  
*Coming into force* *1st December 2017*

**THE COURT OF PROTECTION RULES 2017**

**PART 1**

**THE OVERRIDING OBJECTIVE**

- 1.1 Overriding objective
- 1.2 Participation of P

*Duties to further the overriding objective*

- 1.3 Court's duty to manage cases
- 1.4 The duty of the parties
- 1.5 The duty of legal representatives
- 1.6 The duty of unrepresented litigants

**PART 2**

**INTERPRETATION AND GENERAL PROVISIONS**

- 2.1 Interpretation
- 2.2 Court officers
- 2.3 Court officers – authorisation
- 2.4 Computation of time
- 2.5 Application of the Civil Procedure Rules and Family Procedure Rules
- 2.6 Pilot schemes

**PART 3**

**MANAGING THE CASE**

- 3.1 The court's general powers of case management
- 3.2 Case management – unrepresented parties
- 3.3 Court's power to dispense with requirement of any rule

*Status: This is the original version (as it was originally made).*

- 3.4 Exercise of powers on the court's own initiative
- 3.5 General power of the court to rectify matters where there has been an error of procedure
- 3.6 Dealing with the application
- 3.7 Directions

*Allocation of proceedings*

- 3.8 Court's jurisdiction in certain kinds of cases to be exercised by certain judges
- 3.9 Allocation of cases to case pathways

PART 4

HEARINGS

*Private hearings*

- 4.1 General rule – hearing to be held in private
- 4.2 Court's general power to authorise publication of information about proceedings

*Power to order a public hearing*

- 4.3 Court's power to order that a hearing be held in public

*Supplementary*

- 4.4 Supplementary provisions relating to public or private hearings

PART 5

COURT DOCUMENTS

- 5.1 Documents used in court proceedings
- 5.2 Documents required to be verified by a statement of truth
- 5.3 Position statement not required to be verified by statement of truth
- 5.4 Failure to verify a document
- 5.5 Failure to verify a witness statement
- 5.6 False statements
- 5.7 Personal details
- 5.8 Supply of documents to a party from court records
- 5.9 Supply of documents to a non-party from court records
- 5.10 Subsequent use of court documents
- 5.11 Editing information in court documents
- 5.12 Public Guardian to be supplied with court documents relevant to supervision of deputies
- 5.13 Provision of court order to Public Guardian
- 5.14 Amendment of application
- 5.15 Clerical mistakes or slips
- 5.16 Endorsement of amendment

PART 6

SERVICE OF DOCUMENTS

*Service generally*

- 6.1 Scope
- 6.2 Who is to serve
- 6.3 Methods of service
- 6.4 Service of documents on children and protected parties
- 6.5 Service of documents on P if P becomes a party
- 6.6 Substituted service
- 6.7 Deemed service
- 6.8 Certificate of service
- 6.9 Certificate of non-service
- 6.10 Power of court to dispense with service

*Service out of the jurisdiction*

- 6.11 Scope and interpretation
- 6.12 Service of application form and other documents out of the jurisdiction
- 6.13 Period for acknowledging service or responding to application where application is served out of the jurisdiction
- 6.14 Method of service – general provisions
- 6.15 Service in accordance with the Service Regulation
- 6.16 Service through foreign governments, judicial authorities and British Consular authorities
- 6.17 Procedure where service is to be through foreign governments, judicial authorities and British Consular authorities
- 6.18 Translation of application form or other document
- 6.19 Undertaking to be responsible for expenses of the Foreign and Commonwealth Office

PART 7

NOTIFYING P

*General requirement to notify P*

- 7.1 General
- 7.2 Who is to notify P
- 7.3 Notifying P of appointment of a litigation friend, etc.

*Circumstances in which P must be notified*

- 7.4 Application form
- 7.5 Appeals
- 7.6 Decisions and orders of the court
- 7.7 Other matters

*Manner of notification and accompanying documents*

- 7.8 Manner of notification
- 7.9 Acknowledgment of notification
- 7.10 Certificate of notification
- 7.11 Dispensing with requirement to notify, etc.

*Status: This is the original version (as it was originally made).*

## PART 8

### PERMISSION

- 8.1 General
- 8.2 Where the court's permission is not required
- 8.3 Permission - supplementary
- 8.4 Application for permission
- 8.5 Service of an order giving or refusing permission
- 8.6 Appeal against a permission decision following a hearing

## PART 9

### HOW TO START AND RESPOND TO PROCEEDINGS, AND PARTIES TO PROCEEDINGS

#### *Initial steps*

- 9.1 General
- 9.2 When proceedings are started
- 9.3 Contents of the application form
- 9.4 Documents to be filed with the application form
- 9.5 What the court will do when an application form is filed

#### *Steps following issue of application form*

- 9.6 Applicant to serve the application form on named respondents
- 9.7 Applications relating to lasting powers of attorney
- 9.8 Applications relating to enduring powers of attorney
- 9.9 Applicant to notify P of an application
- 9.10 Applicant to notify other persons of an application
- 9.11 Requirements for certain applications

#### *Responding to an application*

- 9.12 Responding to an application

#### *The parties to the proceedings*

- 9.13 Parties to the proceedings
- 9.14 Persons to be bound as if parties
- 9.15 Application to be joined as a party
- 9.16 Application for removal as a party to proceedings

## PART 10

### APPLICATIONS WITHIN PROCEEDINGS

- 10.1 Types of applications for which the Part 10 procedure may be used
- 10.2 Application notice to be filed
- 10.3 What an application notice must include
- 10.4 Service of an application notice
- 10.5 Applications without notice
- 10.6 Security for costs
- 10.7 Conditions to be satisfied
- 10.8 Security for costs other than from the applicant
- 10.9 Security for costs of an appeal

*Interim remedies*

- 10.10 Orders for interim remedies

PART 11

DEPRIVATION OF LIBERTY

- 11.1 Deprivation of liberty

PART 12

HUMAN RIGHTS

- 12.1 General

PART 13

JURISDICTION, WITHDRAWAL OF PROCEEDINGS,  
PARTICIPATION AND RECONSIDERATION

*Disputing the jurisdiction of the court*

- 13.1 Procedure for disputing the court's jurisdiction

*Withdrawal of proceedings*

- 13.2 Permission required to withdraw proceedings

*Participation in hearings*

- 13.3 Participation in hearings

*Reconsideration of court orders*

- 13.4 Orders made without a hearing or without notice to any person

PART 14

ADMISSIONS, EVIDENCE AND DEPOSITIONS

*Admissions*

- 14.1 Making an admission

*Evidence*

- 14.2 Power of court to control evidence  
14.3 Evidence of witnesses – general rule  
14.4 Written evidence – general rule  
14.5 Evidence by video link or other means  
14.6 Service of witness statements for use at final hearing  
14.7 Form of witness statement  
14.8 Witness summaries  
14.9 Affidavit evidence  
14.10 Form of affidavit  
14.11 Affidavit made outside the jurisdiction  
14.12 Notarial acts and instruments  
14.13 Summoning of witnesses  
14.14 Power of court to direct a party to provide information

*Status: This is the original version (as it was originally made).*

*Depositions*

- 14.15 Evidence by deposition
- 14.16 Conduct of examination
- 14.17 Fees and expenses of examiners of the court
- 14.18 Examiners of the court
- 14.19 Enforcing attendance of a witness
- 14.20 Use of deposition at a hearing

*Taking evidence outside the jurisdiction*

- 14.21 Interpretation
- 14.22 Where a person to be examined is in another Regulation State
- 14.23 Where a person to be examined is out of the jurisdiction – letter of request

*Section 49 reports*

- 14.24 Reports under section 49 of the Act
- 14.25 Written questions to person making a report under section 49

PART 15

EXPERTS

- 15.1 References to expert
- 15.2 Restriction on filing an expert's report
- 15.3 Duty to restrict expert evidence
- 15.4 Experts – overriding duty to the court
- 15.5 Court's power to restrict expert evidence
- 15.6 General requirement for expert evidence to be given in a written report
- 15.7 Written questions to experts
- 15.8 Contents of expert's report
- 15.9 Use by one party of expert's report disclosed by another
- 15.10 Discussions between experts
- 15.11 Expert's right to ask court for directions
- 15.12 Court's power to direct that evidence is to be given by a single joint expert
- 15.13 Instructions to a single joint expert

PART 16

DISCLOSURE

- 16.1 Meaning of disclosure
- 16.2 General or specific disclosure
- 16.3 Procedure for general or specific disclosure
- 16.4 Ongoing duty of disclosure
- 16.5 Right to inspect documents
- 16.6 Inspection and copying of documents
- 16.7 Claim to withhold inspection or disclosure of documents
- 16.8 Consequence of failure to disclose documents or permit inspection

## PART 17

### LITIGATION FRIENDS AND RULE 1.2 REPRESENTATIVES

#### SECTION 1 – LITIGATION FRIENDS

- 17.1 Who may act as a litigation friend
- 17.2 Requirement for a litigation friend
- 17.3 Litigation friend without a court order
- 17.4 Litigation friend by court order
- 17.5 Court's power to prevent a person from acting as a litigation friend or to bring an end to an appointment of a person as a litigation friend or to appoint another one
- 17.6 Appointment of litigation friend by court order – supplementary
- 17.7 Procedure where appointment of a litigation friend comes to an end for a child
- 17.8 Practice direction in relation to litigation friends

#### SECTION 2 – RULE 1.2 REPRESENTATIVES

- 17.9 Who may act as a rule 1.2 representative for P
- 17.10 Rule 1.2 representative by court order
- 17.11 Application by rule 1.2 representative or by P for directions
- 17.12 Court's power to prevent a person from acting as a rule 1.2 representative or to bring an end to an appointment of a person as a rule 1.2 representative or to appoint another one
- 17.13 Appointment of rule 1.2 representative by court order – supplementary
- 17.14 Practice direction in relation to rule 1.2 representatives

## PART 18

### CHANGE OF SOLICITOR

- 18.1 Change of solicitor
- 18.2 Legally aided persons
- 18.3 Order that a solicitor has ceased to act
- 18.4 Removal of solicitor who has ceased to act on application of another party
- 18.5 Practice direction relating to change of solicitor

## PART 19

### COSTS

- 19.1 Interpretation
- 19.2 Property and affairs – the general rule
- 19.3 Personal welfare – the general rule
- 19.4 Apportioning costs – the general rule
- 19.5 Departing from the general rule
- 19.6 Rules about costs in the Civil Procedure Rules to apply
- 19.7 Detailed assessment of costs
- 19.8 Employment of a solicitor by two or more persons
- 19.9 Costs of the Official Solicitor
- 19.10 Procedure for assessing costs

*Status: This is the original version (as it was originally made).*

- 19.11 Costs following P's death
- 19.12 Costs orders in favour of or against non-parties
- 19.13 Remuneration of a deputy, donee or attorney
- 19.14 Practice direction as to costs

## PART 20

### APPEALS

- 20.1 Scope of this Part
- 20.2 Interpretation
- 20.3 Dealing with appeals
- 20.4 Destination of appeals
- 20.5 Permission to appeal – appeals to the Court of Appeal
- 20.6 Permission to appeal – other cases
- 20.7 Appeal against an order for committal to prison
- 20.8 Matters to be taken into account when considering an application for permission
- 20.9 Power to treat application for permission to appeal as application for reconsideration under rule 13.4
- 20.10 Appellant's notice
- 20.11 Respondent's notice
- 20.12 Variation of time
- 20.13 Power of appeal judge on appeal
- 20.14 Determination of appeals

## PART 21

### APPLICATIONS AND PROCEEDINGS IN RELATION TO CONTEMPT OF COURT

#### SECTION 1 – SCOPE AND INTERPRETATION

- 21.1 Scope
- 21.2 Saving for other powers
- 21.3 Interpretation

#### SECTION 2 – COMMITTAL FOR BREACH OF A JUDGMENT, ORDER OR UNDERTAKING TO DO OR ABSTAIN FROM DOING AN ACT

- 21.4 Enforcement of judgment, order or undertaking to do or abstain from doing an act
- 21.5 Requirement for service of a copy judgment or order and time for service
- 21.6 Method of service – copies of judgments or orders
- 21.7 Method of service – copies of undertakings
- 21.8 Dispensation with personal service
- 21.9 Requirement for a penal notice on judgments and orders
- 21.10 How to make the committal application
- 21.11 Committal for breach of a solicitor's undertaking

#### SECTION 3 – CONTEMPT IN THE FACE OF THE COURT

- 21.12 Contempt in the face of the court



#### SECTION 4 – COMMITTAL FOR INTERFERENCE WITH THE DUE ADMINISTRATION OF JUSTICE

- 21.13 Scope
- 21.14 Court to which application for permission under this Section is to be made
- 21.15 Application for permission

#### SECTION 5 – COMMITTAL FOR MAKING A FALSE STATEMENT OF TRUTH

- 21.16 Scope and interaction with other Sections of this Part
- 21.17 Committal application in relation to a false statement of truth

#### SECTION 6 – WRIT OF SEQUESTRATION TO ENFORCE A JUDGMENT, ORDER OR UNDERTAKING

- 21.18 Scope
- 21.19 Writ of sequestration to enforce a judgment, order or undertaking
- 21.20 Requirement for service of a copy of the judgment or order and time for service
- 21.21 Method of service – copies of judgments or orders
- 21.22 Method of service – copies of undertakings
- 21.23 Dispensation with personal service
- 21.24 Requirement for a penal notice on judgments and orders
- 21.25 How to make an application for permission to issue a writ of sequestration
- 21.26 Form of writ of sequestration

#### SECTION 7 – GENERAL RULES ABOUT COMMITTAL APPLICATIONS, ORDERS FOR COMMITTAL AND WRITS OF SEQUESTRATION

- 21.27 Hearing for committal order or writ of sequestration to be in public
- 21.28 The hearing
- 21.29 Power to suspend execution of a committal order
- 21.30 Warrant of committal
- 21.31 Discharge of a person in custody
- 21.32 Discharge of a person in custody where a writ of sequestration has been issued

#### PART 22

#### CIVIL RESTRAINT ORDERS

- 22.1 Powers of the court to make civil restraint orders

#### PART 23

#### INTERNATIONAL PROTECTION OF ADULTS

- 23.1 Applications in connection with Schedule 3 to the Act – general
- 23.2 Interpretation
- 23.3 Application of these Rules in relation to Schedule 3 applications
- 23.4 Applications for recognition and enforcement

*Status: This is the original version (as it was originally made).*

- 23.5 Applications in relation to lasting powers – disapplication or modification
- 23.6 Applications in relation to lasting powers – declaration as to authority of donee of lasting power

#### PART 24

#### MISCELLANEOUS

- 24.1 Enforcement methods – general
  - 24.2 Enforcement methods – application of the Civil Procedure Rules 1998
  - 24.3 Order or directions requiring a person to give security for discharge of functions
  - 24.4 Objections to registration of an enduring power of attorney – request for directions
  - 24.5 Disposal of property where P ceases to lack capacity
  - 24.6 Citation and commencement, revocations and transitional provision
- Signature

---

#### SCHEDULE — Revocations

Explanatory Note