
STATUTORY INSTRUMENTS

2017 No. 1035

The Court of Protection Rules 2017

PART 6

SERVICE OF DOCUMENTS

Service generally

Scope

- 6.1.**—(1) Subject to paragraph (2), the Rules in this Part apply to—
- (a) the service of documents; and
 - (b) the requirements under rule 9.10 for a person to be notified of the issue of an application form,

and references to “serve”, “service”, “notice” and “notify”, and kindred expressions, shall be construed accordingly.

- (2) The rules in this Part do not apply where—
- (a) any other enactment, a rule in another Part or a practice direction makes different provision; or
 - (b) the court directs otherwise.

Who is to serve

- 6.2.**—(1) The general rule is that the following documents are to be served by the court—
- (a) an order or judgment of the court;
 - (b) an acknowledgment of service or notification; and
 - (c) except where the application is for an order for committal, a notice of hearing.
- (2) Any other document is to be served by the party seeking to rely upon it, except where—
- (a) a rule or practice direction provides otherwise; or
 - (b) the court directs otherwise.
- (3) Where the court is to serve a document—
- (a) it is for the court to decide which of the methods of service specified in rule 6.3 is to be used; and
 - (b) if the document is being served on behalf of a party, that party must provide sufficient copies.

Methods of service

- 6.3.**—(1) A document may be served by any of the methods specified in this rule.

(2) Where it is not known whether a solicitor is acting on behalf of a person, the document may be served by—

- (a) delivering it to the person personally;
- (b) delivering it to the person's home address or last known home address; or
- (c) sending it to that address, or last known address, by first class post (or by an alternative method of service which provides for delivery on the next working day).

(3) Where a solicitor—

- (a) is authorised to accept service on behalf of a person; and
- (b) has informed the person serving the document in writing that the solicitor is so authorised,

the document must be served on the solicitor unless personal service is required by an enactment, rule, practice direction or court order.

(4) Where it appears to the court that there is a good reason to authorise service by a method other than those specified in paragraphs [F1(2), (3) and (6)], the court may direct that service is to be effected by that method.

(5) A direction that service is to be effected by an alternative method must specify—

- (a) the method of service; and
- (b) the date on which the document will be deemed to be served.

[F2(6) Documents may be served by document exchange or electronic communication in accordance with the relevant practice direction.]

- F1** Words in rule 6.3(4) substituted (1.1.2023) by [The Court of Protection \(Amendment\) Rules 2022 \(S.I. 2022/1192\)](#), rules 1(1), **3(a)**
- F2** Rule 6.3(6) substituted (1.1.2023) by [The Court of Protection \(Amendment\) Rules 2022 \(S.I. 2022/1192\)](#), rules 1(1), **3(b)**

Service of documents on children and protected parties

6.4.—(1) The following table shows the person on whom a document must be served if it is a document which would otherwise be served on—

- (a) a child; or
- (b) a protected party.

<i>Type of document</i>	<i>Nature of party</i>	<i>Person to be served</i>
Application form	Child	—A person who has parental responsibility for the child within the meaning of the Children Act 1989 ^{M1} ; or —if there is no such person, a person with whom the child resides or in whose care the child is.
Application form	Protected party	—The person who is authorised to conduct the proceedings in the protected party's name or on the protected party's behalf; or

		—a person who is a duly appointed attorney, donee or deputy of the protected party; or —if there is no such person, a person with whom the protected party lives or in whose care the protected party is.
Application for an order appointing a litigation friend, where a child or protected party has no litigation friend	Child or protected party	—See rule 17.6 (appointment of litigation friend by court order – supplementary).
Any other document	Child or protected party	—The litigation friend or other duly authorised person who is conducting the proceedings on behalf of the child or protected party.

(2) The court may make an order for service on a child or a protected party by permitting the document to be served on some person other than the person specified in the table in paragraph (1) (which may include service on the child or the protected party).

(3) An application for an order under paragraph (2) may be made without notice.

(4) The court may order that, although a document has been served on someone other than the person specified in the table in paragraph (1), the document is to be treated as if it had been properly served.

(5) This rule does not apply in relation to the service of documents on a child in any case where the court has made an order under rule 17.2(4) permitting the child to conduct proceedings without a litigation friend.

Marginal Citations

M1 1989 c. 41.

Service of documents on P if P becomes a party

6.5.—(1) If P becomes a party to the proceedings, all documents to be served on P must be served on P's litigation friend or as directed by the court on P's behalf.

(2) The court may make an order for service on P by permitting the document to be served on some person other than the person specified in paragraph (1) (which may include service on P).

(3) An application for an order under paragraph (2) may be made without notice.

(4) The court may order that, although a document has been served on someone other than a person specified in paragraph (1), the document is to be treated as if it had been properly served.

(5) This rule does not apply in relation to the service of documents on P in any case where the court has made an order under rule 17.5(1)(b) (power of court to bring to an end the appointment of a litigation friend).

(Rule 7.3 requires P to be notified where a direction has been made under rule 1.2, and of the appointment of a litigation friend, accredited legal representative or representative.)

Substituted service

6.6. Where it appears to the court that it is impracticable for any reason to serve a document in accordance with any of the methods provided under rule 6.3, the court may make an order for substituted service of the document by taking such steps as the court may direct to bring it to the notice of the person to be served.

Deemed service

6.7.—(1) A document which is served in accordance with these Rules or any relevant practice direction shall be deemed to be served on the day shown in the following table.

<i>Method of service</i>	<i>Deemed day of service</i>
First class post (or other service for next-day delivery)	The second day after it was posted.
Document exchange	The second day after it was left at the document exchange.
Delivering the document to a permitted address	The day after it was delivered to that address.
Fax	If it is transmitted on a business day before 4 p.m., on that day; or in any other case, on the business day after the day on which it is transmitted.
Other electronic means	The second day after the day on which it is transmitted.

(2) If a document is served personally—

(a) after 5 p.m. on a business day; or

(b) at any time on a Saturday, Sunday or a Bank Holiday,

it will be treated as being served on the next business day.

Certificate of service

6.8.—(1) Where a rule, practice direction or court order requires a certificate of service for the document, the certificate must state the details set out in the following table.

<i>Method of service</i>	<i>Details to be certified</i>
First class post (or any other service for next-day delivery)	Date of posting.
Personal service	Date of personal service.
Document exchange	Date when the document was left at the document exchange.
Delivery of the document to a permitted address	Date when the document was delivered to that address.
Fax	Date of transmission.
Other electronic means	Date of transmission and the means used.
Alternative method permitted by the court	As required by the court.

- (2) The certificate must be filed within 7 days after service of the document to which it relates.

Certificate of non-service

6.9.—(1) Where an applicant or other person is unable to serve any document under these Rules or as directed by the court, that person must file a certificate of non-service stating the reasons why service has not been effected.

(2) The certificate of non-service must be filed within 7 days of the latest date on which service should have been effected.

Power of court to dispense with service

6.10.—(1) The court may dispense with any requirement to serve a document.

(2) An application for an order to dispense with service may be made without notice.

Changes to legislation:

There are currently no known outstanding effects for the The Court of Protection Rules 2017,
Cross Heading: Service generally.