

PRACTICE DIRECTION UPDATE No. 3 of 2021

The new Practice Direction supplementing the Family Procedure Rules 2010 is made by the President of the Family Division under the powers delegated to him by the Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and is approved by Lord Wolfson QC, Parliamentary Under-Secretary of State, Ministry of Justice.

The new Practice Direction comes into force on 26 April 2021.

Signed:

_____ Date: _____
Sir Andrew McFarlane
The President of the Family Division

Signed:

_____ Date: _____
Lord Wolfson QC
Parliamentary Under-Secretary of State, Ministry of Justice

NEW PRACTICE DIRECTION 36W - PILOT SCHEME: PROCEDURE FOR NOTIFICATION OF CERTAIN PROTECTION ORDERS TO THE POLICE BY EMAIL

(1) After Practice Direction 36V insert new Practice Direction 36W as set out in the Annex to this document.

ANNEX: NEW PRACTICE DIRECTION 36W TO BE INSERTED AFTER PRACTICE DIRECTION 36V

PRACTICE DIRECTION 36W – PILOT SCHEME: PROCEDURE FOR NOTIFICATION OF CERTAIN PROTECTION ORDERS TO THE POLICE BY EMAIL

This practice direction supplements FPR Part 36 (Transitional Arrangements and Pilot Schemes)

Scope and interpretation

1.1 This Practice Direction is made under rule 36.2 FPR and sets up a Pilot Scheme to allow for notification to the police of certain orders to be sent to a centralised email address. It also pilots a change to the timescale within which protection orders must be served, and the removal of a requirement to serve a record of a hearing when serving certain orders.

1.2 This Practice Direction comes into force on 26 April 2021.

1.3 This Pilot Scheme applies where all of the following conditions are met-

- (a) the order is a protection order or an order varying, discharging or extending a protection order;
- (b) the protection order was made in the High Court or family court; and
- (c) the protection order, or the order varying, discharging or extending a protection order, was made in the period commencing on 26 April 2021 and ending at the end of the day on 26 April 2022.

Purpose of this Pilot Scheme

2.1 The purpose of this Pilot Scheme is to assess:

- (a) the use of new practices and procedures to allow for-
 - (i) the court to email certain protection orders,
 - (ii) the court to email certain further orders extending, varying or discharging such orders; and
 - (iii) the applicant or the court to email confirmation that an order or further order referred to in sub-paragraph (a) or (b) has been served, or that the person to whom it applies has been informed of its terms,to a centralised email address for the police; and
- (b) a change to the timescale within which protection orders must be served and the removal of a current requirement to serve a copy of a record of a hearing when serving a protection order.

2.2 Orders or other information received at the centralised email address referred to in this Practice Direction will be automatically forwarded to-

- (a) the local and regional policing lead for the address of the person who is the subject of the proceedings, where that address is in England and Wales; and
- (b) to the local and regional policing lead for the address of the respondent(s) to the order, where that address is in England and Wales and where the court has directed that the policing lead for that address should be informed.

2.3 This Practice Direction supersedes Practice Direction 36H, which is revoked from the date this Practice Direction comes into force.

Modification of the FPR and Practice Directions, and application of this Practice Direction, during the operation of the Pilot Scheme

3.1 During the operation of the Pilot Scheme, where the Pilot Scheme applies, the FPR and the Practice Directions supporting the FPR will apply-

- (a) subject to the provisions of this Practice Direction; and
- (b) as modified by paragraphs 4.1 and 4.2.

Modification of Part 11 FPR

4.1 In rule 11.7(3)-

- (a) for “as soon as reasonably practical” substitute “within 2 days of an order being made (unless otherwise directed by the court)”; and
- (b) omit sub-paragraph (b).

4.2 For rule 11.12 substitute—

“Notifying the police by email when a protection order is made, varied, extended or discharged

11.12 (1) Where the court makes a protection order, notification must be given to the police force for the address of-

- (a) the person who is the subject of the protection order; and
- (b) if the court so directs, the respondent(s),

by the court officer emailing notification, together with a copy of the protection order, to Protectionorders@pds.police.uk.cjsm.net.

(2) Where an order is made varying, extending or discharging a protection order, notification must be given to any police force notified of the protection order under paragraph (1), by the court officer emailing notification, together with a copy of the protection order and a copy of any order varying, extending or discharging the protection order, to Protectionorders@pds.police.uk.cjsm.net.

(3) Paragraphs (1) and (2) only apply where the address of the person who is the subject of the protection order or of the respondent (as the case may be) is in England and Wales.

(4) The email referred to in paragraph (1) or (2) must be sent within 1 day of the order being sealed by the court officer.

Notifying the police by email when an order is served or a person is informed of its terms

11.12A (1) Paragraph (2) applies when the respondent(s) and any other person whose breach of the order would be an offence has been-

- (a) served with; or

(b) informed (whether by being present when the order was made or by telephone or otherwise) of the terms of,

an order referred to in rule 11.12(1) or (2).

(2) A notification showing that the person has been served with, or has been informed of the terms of, the order must be sent by email -

(a) where the sender has access to the “cjsm” network, to
Protectionorders@pds.police.uk.cjsm.net

(b) where the sender does not have access to the “cjsm” network, to
Protectionorders@pds.police.uk.

(3) The notification referred to in paragraph (2) must be sent by-

(a) the applicant, where rule 11.7(3) applies; or

(b) the court officer, where rule 11.7(4) applies.

(4) Where paragraph (3)(a) applies-

(a) the email referred to in paragraph (2) must be sent within 2 days of the person being served with, or informed of the terms of, the order; and

(b) the applicant must also send a statement of service confirming that the person has been served with, or has otherwise been informed of the terms of, the order by email to the court.

(5) Where paragraph (3)(b) applies, the notification referred to in paragraph (2) must be sent within 1 day of receipt by the court officer of confirmation of service, or of the person having been informed of the terms of the order, from the court bailiff.”
