

Proposed Family Procedure Rule and Practice Direction amendments to support the implementation of Section 18 of the Victims and Prisoners Act 2024

Resolution's response to the Family Procedure Rule Committee

Resolution's 6,500 members are family lawyers, mediators and other family justice professionals, committed to a non-adversarial approach to family law and the resolution of family disputes.

Resolution members abide by a [Code of Practice](#) which emphasises a constructive and collaborative approach to family problems and encourages solutions that take into account the needs of the whole family, particularly the best interests of any children.

Resolution is committed to developing and promoting best standards in the practice of family law amongst both its members and amongst family lawyers in general.

We also campaign for better laws and better support and facilities for families and children undergoing family change.

Response to consultation question

Do you have any feedback on the proposed approach and the resulting amendments to Part 12 of the Family Procedure Rules and Practice Directions 3A, 5A, 12B, 12B (Pilot) and PD12J as currently drafted?

1. We appreciate the work that has gone into preparing this and have some thoughts below.
2. We have considered whether it might be preferable for those who are caring for the child to be automatic respondents to the review or variation applications (with an easy court mechanism for discharge as respondents as necessary and appropriate). Undoubtedly there will be carers who don't want to be respondents and will want the Local Authority to deal with all matters, but there will be carers who want to take part in the proceedings and to apply for parental responsibility themselves if they have not yet acquired it. We understand that giving notice and allowing those wanting to apply is potentially the less onerous option than those traumatised and not wanting to be involved having to opt out (especially if they are not automatically eligible for legal aid). However, we are concerned that the carer of the child may be overlooked; and having to make an application to be joined involves completing and filing an application (and paying a fee which they may not be able to afford). There is also the potential the perpetrator might argue about the application. And if the Local Authority has 14 days to apply to court for a review, we query if this enables respondent carers time to secure legal aid funding or legal advice if not eligible if they do want to apply to be joined.

3. In any event, it will also be an important part of review proceedings to consider that those caring for the child will need parental responsibility and may not yet have acquired it. We suggest that should specifically be mentioned as part of the considerations for these cases.
4. We suggest consideration be given to including a mechanism or provision to explain what should happen in the unlikely event that the Local Authority does not apply for review of the order.
5. We appreciate that the alignment of the legal aid scheme with these changes is outside of the remit of the Family Procedure Rule Committee, but wanted the Committee to be aware that we will raise separately with the Ministry of Justice and the Legal Aid Agency the need for clarity on the legal aid position of both the convicted parent, and of the carer of the child. It seems to us that the latter should automatically meet the merits test for legal aid and not be required to produce gateway evidence.
6. Finally, we note that the changes currently being implemented under Section 18 of the Victims and Prisoners Act 2024 apply to those people who have been convicted of the killing of their partner, but there is scope in the future for other offences where there will be a living parent to be included to restrict parental responsibility of the perpetrating parent. We would be interested in responding to any related future proposed changes to the FPR.

For further information please contact:

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