

PRACTICE DIRECTION – HOW TO START PROCEEDINGS

This practice direction supplements Part 9 of the Court of Protection Rules 2007

PRACTICE DIRECTION C – RESPONDING TO AN APPLICATION

General

1. Rule 72(11) enables a practice direction to make provision about responding to applications. Rule 72 sets out the procedure to be followed where a person who has been served with or notified of an application form wishes to become, or apply to become, a party to proceedings.
2. Rule 75 sets out the procedure to be followed where a person who has not been served with or notified of an application form in accordance with rules 66 to 70 wishes to apply to become a party to proceedings.

Responding to the application

Persons served with an application

3. Where a person is served with an application form pursuant to rule 66, 67 or 68 he must, if he wishes to be a party to the proceedings, file an acknowledgment of service using form COP5 in accordance with rule 72. By doing this, he becomes a party.¹

Persons notified of an application

4. Where a person has been notified of an application pursuant to rule 67(5), 68(5), 69 or 70, he must, if he wishes to be a party to the proceedings, apply to the court to be joined as a party by filing an acknowledgment of notification using form COP5 in accordance with rule 72.

Persons not served with or notified of an application

5. Where a person was not served with or notified of an application form, he must, if he wishes to be a party to the proceedings, apply to the court to be joined as a

¹ Rule 73(1)(b).

party, by filing an application to be joined using form COP10 in accordance with rule 75.

Signing the acknowledgment

6. An acknowledgment must be signed by the person acknowledging service or notification, or by his legal representative or litigation friend.
7. Where the respondent is a company or other corporation, a person holding a senior position in the company or corporation may sign the acknowledgment on the respondent's behalf, but must state the position he holds.
8. Each of the following persons is a person holding a senior position:
 - (a) in respect of a registered company or corporation, a director, the treasurer, secretary, chief executive, manager or other officer of the company or corporation; and
 - (b) in respect of a corporation which is not a registered company, in addition to those persons set out at (a), the mayor, chairman, president, town clerk or similar officer of the corporation.
9. Where the respondent is a partnership, the acknowledgment may be signed by:
 - (a) any of the partners; or
 - (b) a person having the control or management of the partnership business.
10. The name of the person acknowledging service or notification should be set out in full on the acknowledgment.
11. If two or more persons acknowledge service or notification of an application through the same legal representative at the same time, only one acknowledgment of service need be used.

Address for service

12. The acknowledgment must include an address for the service of documents, which must be within the jurisdiction of the court.

13. When the person acknowledging service or notification is represented by a legal representative, and the legal representative has signed the acknowledgment, the address must be the legal representative's business address.

Corrections and amendments to the acknowledgment

14. Where the name of the person acknowledging service or notification has been set out incorrectly on the application form, it should be correctly set out in the acknowledgment followed by the words "described as" and the incorrect name.

15. An acknowledgment of service or notification may be amended only with the permission of the court.

16. An application under paragraph 15 must be made by filing a COP9 application notice in accordance with Part 10 and supported by evidence.