

**Practice Guidance on Service of Part 4 Family Law Act 1996
applications, orders and notification to the police: Pilot
Practice Direction 36U**

1. At its July 2020 meeting the Family Procedure Rule Committee considered the issue of service arrangements for applications for orders, and orders made, under Part 4 Family Law Act 1996 (FLA 1996 orders), particularly in light of the temporary restrictions that were then in place around bailiff service because of the Coronavirus outbreak. Bailiff service resumed on 13 July 2020.
2. The Committee has concluded that a pilot Practice Direction should be put in place to make temporary modifications to Part 10 of the Family Procedure Rules 2010 (FPR) for a period of nine months. The resulting pilot Practice Direction 36U comes into force on 3 August 2020 and applies until 3 May 2021.
3. This Guidance should be considered alongside the modifications made to Part 10 FPR by PD36U.
4. The practical effect of the pilot is that it makes express provision clarifying that courts can use r6.35 FPR (which in turn applies r6.19 FPR) to direct service by a method other than personal service, where there is good reason to do so, and that courts can use r6.36 FPR to dispense with service in an appropriate case. For example, an order might be made dispensing with service of some orders enforceable by committal, of non-molestation orders, or occupation orders with a power of arrest attached, where a respondent has been present in court and provided with a copy of the order (albeit unsealed), with the order reciting why service is being dispensed with.
5. The intention is that personal service should remain the usual method for service of Part 4 FLA 1996 applications and orders, where appropriate.
6. It will remain important, for the court to consider the impact of the method of service directed on the potential to enforce the order, whether by way of contempt or by way of prosecution under s42A FLA 1996, particularly if an alternative to personal service is directed – noting the need for the respondent to be aware of the order (section 42A(2) FLA) and the possibility of claiming a “reasonable excuse” under s42A(1) FLA 1996.
7. As regards notifying the police of an occupation order to which a power of arrest has been attached, or of a non-molestation order, the intention is that this should be done when the respondent has been served or otherwise informed of the terms of the order, whether by being present when the order was made or by telephone or otherwise as per r10.10(2) FPR including when the order is served by the court pursuant to r10.6(2).

Guidance issued by Mrs Justice Theis

Acting President of the Family Division

28 July 2020