

PRACTICE DIRECTION 3A – COURT'S JURISDICTION TO BE EXERCISED BY CERTAIN JUDGES

This practice direction supplements Part 3 of the Court of Protection Rules 2017

General

1. Rule 3.8 allows a practice direction to specify that certain categories of case must be dealt with by a specific judge or a specific class of judges.

Cases concerning an ethical dilemma in an untested area or declarations of incompatibility pursuant to section 4 of the Human Rights Act 1998

2. (a) Where an application is made to the court in relation to an ethical dilemma in an untested area, the proceedings must be conducted by a Tier 3 judge;

(b) Where an application is made to the court pursuant to rule 12.1, in which a declaration of incompatibility pursuant to section 4 of the Human Rights Act 1998 is sought, the proceedings (including permission, the giving of any directions, and any hearing) must be conducted by a judge of the court who has been nominated as such by virtue of section 46(2)(a) to (c) of the Act (i.e. the President of the Family Division, the Chancellor or a puisne judge of the High Court).

Court's general discretion as to allocation

3. The Senior Judge or a Tier 3 Judge may determine whether a matter is one that is to be allocated pursuant to this practice direction.

4. The judge to whom a matter is allocated in accordance with this practice direction may determine that the matter or parts of it may properly be heard by a judge of the court other than a Tier 3 Judge or one nominated by virtue of section 46(2)(a) to (c) of the Act; and may reallocate the matter or part of it accordingly.