

PRACTICE DIRECTION 6A – SERVICE OF DOCUMENTS

This practice direction supplements Part 6 of the Court of Protection Rules 2017

Service by document exchange

1. Rule 6.3(6) allows documents to be served by document exchange in accordance with a practice direction.

2. Service by document exchange (DX) may take place only where—
 - (a) the party's address for service includes a numbered box at a DX; or
 - (b) the writing paper of the party who is to be served or of that party's legal representative sets out the DX box number; and
 - (c) the party or the party's legal representative has not indicated in writing that he or she is unwilling to accept service by DX.

3. Service by DX is effected by leaving the document addressed to the numbered box—
 - (a) at the DX of the party who is to be served; or
 - (b) at a DX which sends documents to the party's DX every business day.

Service by electronic means

4. Rule 6.3(6) allows documents to be served by electronic means in accordance with a practice direction.

5. Subject to the provisions of paragraph 7 below, where a document is to be served by electronic means—
 - (a) the party who is to be served or that party's legal representative must have previously expressly indicated in writing to the party serving—
 - (i) that he or she is willing to accept service by electronic means, and
 - (ii) the fax number, e-mail address, or electronic identification to which it should be sent; and
 - (b) the following shall be taken as sufficient written indication for the purposes of the preceding paragraph—
 - (i) a fax number set out on the writing paper of the legal representative of the party who is to be served, or
 - (ii) a fax number, e-mail address or electronic identification set out on an application form or a response to an application filed with the court.

6. Where a party seeks to serve a document by electronic means that party should first seek to clarify with the party who is to be served whether there are any limitations to the recipient's agreement to accept service by such means, including in relation to the format in which documents are to be sent and the maximum size of attachments that may be received.

7. An address for service given by a party must be within the jurisdiction and any fax number must be at the address for service. Where an email address or electronic identification is given in conjunction with an address for service, the email address or electronic identification will be deemed to be at the address for service.

8. Where a document is served by electronic means, the party serving the document need not in addition send a hard copy by post or document exchange.

Service on business partners

9. A document which is served by leaving it with a person at the principal or last known place of business of the partnership, must at the same time have served with it a notice as to whether the person is being served—

- (a) as a partner;
- (b) as a person having control or management of the partnership business; or
- (c) as both.

Service on a company or other corporation

10. Personal service on a registered company or corporation in accordance with rule 6.3 is effected by leaving a document with a person holding a senior position in the company or corporation.

11. 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 registered, in addition to those persons set out in (a), the mayor, chairman, president, town clerk or similar officer of the corporation.

Change of address

12. A party or that party's legal representative who changes their address for service shall give notice in writing of the change as soon as it has taken place to the court and every other party.

Service by the court

13. Where the court effects service of a document, the method will normally be by:
- (a) first class post; or
 - (b) by email where the party to be served has provide an email address in an application form or a response to an application filed with the court.
14. Where the court effects service of an acknowledgment of service, the court will also serve or deliver a copy of any notice of funding that has been filed provided—
- (a) it was filed at the same time as the acknowledgment of service; and
 - (b) copies were provided for service.

Applications for service by an alternative method

15. An application for an order for service by an alternative method pursuant to rule 6.3(4) must be made by filing a COP9 application notice in accordance with Part 10, and supported by a witness statement containing evidence which states—
- (a) the reason an order for an alternative method of service is sought;
 - (b) what steps have been taken to serve by other permitted means; and
 - (c) the alternative method of service that is proposed, and the reason/s why it is believed that service by such a method will come to the notice of the person to be served.

Certificate of service or non-service

16. Where a certificate of service or non-service is required to be filed, Forms COP20A and COP20B should be used.

Application to dispense with service

17. An application for an order to dispense with service pursuant to rule 6.10 should be made by filing a COP9 application notice in accordance with Part 10.