



PRESIDENT OF THE
FAMILY DIVISION

PRESIDENT'S GUIDANCE NOTE

Care Proceedings involving placement order applications – Attendance of the Media

1. One of the principal drivers behind the recent change in government policy in relation to the attendance of the media in family proceedings was the concern widely expressed that Public Law Care Proceedings in particular should be more open to scrutiny. It is, of course, the case that many such proceedings also involve the consideration of a placement order application by the local authority which is dealt with as part of the care proceedings.
2. It was also the position that, in response to successive government consultations, the vast majority of consultees objected to the attendance of the press at “adoption proceedings” strictly so called, and it was accepted by the government that further consideration was required in respect of such proceedings before any changes in the rules or practice were made.
3. Following circulation of ministry guidance within HMCS, a question has arisen about the extent to which media representatives are entitled to attend care proceedings when heard together with an application for a placement order and whether the existence of a concurrent placement application should, by itself, be treated as a reason to exclude representatives of the media from hearings in the linked care proceedings, where a direction for non-attendance would not otherwise be justified on the limited grounds set out in rule 10.28(4) of the Family Proceedings Rules 1991 (“FPR 1991”).
4. The changes introduced by FPR 1991, r 10.28 (and in the magistrates’ court by the Family Proceedings Courts (Children Act 1989) Rules 1991, r 16A) do not affect proceedings under the Adoption and Children Act 2002, which are governed by the Family Procedure (Adoption) Rules 2005. These have not been amended in parallel with the Family Proceedings Rules to cater for the attendance of media representatives in relation to placement order applications in care proceedings.

5. Thus, representatives of the media are not entitled as of right to attend hearings in adoption or placement proceedings held in private. Nonetheless, in the High Court and county courts, the court has a discretion to allow them to be present.
6. The personal and confidential nature of proceedings for an adoption order means that it would not generally be appropriate for the court to permit media representatives to be present at an adoption hearing. However, the same considerations do not usually apply in proceedings for a placement order and, in such proceedings in the High Court or a county court, the court may consider it appropriate to allow media representatives to be present.
7. In particular, where an application for a placement order is heard together with care proceedings, the court should, when considering whether to admit media representatives, take into account their general right to attend hearings in care proceedings. In such a case, it would normally be appropriate for the court to allow representatives of the media to be present, unless a direction under FPR 1991, r 10.28(4) is necessary in relation to the care proceedings or there is some feature of the placement application which means that media representatives should not be present (for example, where there is a need to preserve the confidentiality of a proposed placement or where the interests of a prospective adopter or other person who is not before the court may be adversely affected by the attendance of the media). The existence of a placement application should not, by itself, be treated as a reason for making a direction under FPR 1991, r 10.28(4) excluding the attendance of media representatives in respect of the care proceedings.
8. It should be noted that the position is different in the magistrates' court (Family Proceedings Court), where the effect of section 69(2) and (3) of the Magistrates' Courts Act 1980 (as amended by the Adoption and Children Act 2002, Schedule 3) is that media representatives are not permitted to be present at hearings in proceedings under the 2002 Act.

Rt. Hon. Sir Mark Potter
President of Family Division
30th April 2009