



23 February 2017

Dear Colleague

CONSULTATION ON DRAFT PRACTICE DIRECTION 3AA – VULNERABLE PERSONS: PARTICIPATION IN PROCEEDINGS AND GIVING EVIDENCE

I enclose a consultation paper relating to a new draft Practice Direction. Practice Direction 3AA, *Vulnerable persons: participation in proceedings and giving evidence*. This is intended to support a new Part 3A of the Family Procedure Rules. Part 3A remains in draft and is attached for convenience but does not form part of this consultation.

The Practice Direction has been developed following the publication in March 2015 of the final report of the judicial Working Group on Vulnerable Witnesses and Children jointly chaired by Russell J and Hayden J¹. The Working Group was set up by the President of the Family Division to review existing Family Justice Council guidance on children meeting judges² and on children giving evidence³ and to address the wider issue of vulnerable people giving evidence in family proceedings. Appendix III of the report included a set of draft model Family Procedure Rules with the intention that they be considered further by the Family Procedure Rule Committee (FPRC).

The FPRC consulted last year on a set of draft new Part 3A rules. Respondents to the consultation raised a number of issues for further consideration by the FPRC and the rules have been amended in light of the consultation, alongside the drafting of the new draft Practice Direction, as recommended by the Working Group.

At this time, the rules and Practice Direction do not include provision for children, other than where a child is giving evidence and the potential use of measures in cases where the court considers that the quality of their evidence would be diminished by reason of vulnerability. Consideration will be given to the wider participation of children in proceedings by separate rules and a separate Practice Direction in due course.

¹ See www.judiciary.gov.uk/publications/final-report-of-the-vulnerable-witnesses-and-children-working-group/

² *Guidelines for Judges Meeting Children who are Subject to Family Proceedings*, April 2010. Available at www.judiciary.gov.uk/related-offices-and-bodies/advisory-bodies/fjc/guidance/parents-and-children/

³ *Guidelines on Children Giving Evidence in Family Proceedings*, December 2011. Available at www.judiciary.gov.uk/related-offices-and-bodies/advisory-bodies/fjc/guidance/guidelines-in-relation-to-children-giving-evidence-in-family-proceedings/

Following consultation by the FPRC on Part 3A, the President of the Family Division would now like to invite comments from interested parties on the draft Practice Direction. The consultation questions are set out in the attached consultation paper. The latest draft of the new Part 3A rules is enclosed for information and to assist understanding of the Practice Direction. Respondents are asked to note, however, that this consultation concerns the draft Practice Direction only.

Please could you send your comments to the following address by **5pm on Friday 17 March 2017**.

Joanna Furlong
Family Justice Policy
Justice and Courts Policy Group
3.40
Ministry of Justice
102 Petty France
London
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Copies of the consultation paper have been sent to the following bodies, and also to other respondents to the FPRC's 2015 consultation on draft rules on children and vulnerable witnesses. The names of individual respondents are omitted from the list below:

Advocates' Gateway
Association of HM District Judges
Association of Lawyers for Children
Cafcass
CAFCASS CYMRU
Chartered Institute of Legal Executives
Children's Commissioner for Wales
Communicourt [intermediary provider]
Council of HM Circuit Judges
Council of HM District Judges (magistrates' courts)
Family Justice Council
Family Justice Young People's Board
Family Law Bar Association
Judicial College
Justices' Clerks' Society
Law Society
Magistrates' Association
Nagalro
National Youth Advocacy Service
Official Solicitor
Resolution
Rights of Women
Transparency Project
Triangle [intermediary provider]
Women's Aid

Please feel free to forward these papers to other people or to let me know of other people who should be sent a copy of the papers.

Please contact me if you require any further information about this consultation.

I am copying this letter and attachments to the President's office and to members of the Family Procedure Rule Committee.

Yours faithfully

JOANNA FURLONG

Enclosures:

Consultation paper and questions
Draft Practice Direction 3AA
Draft Part 3A Family Procedure Rules