

LEICESTER FAMILY COURT

GUIDANCE ON THE USE OF FPR RULE 16.4

1. The power given by Family Proceedings Rules 2010 (FPR) rule 16.4 to order that a subject child be made a party in private law proceedings is a power that will be used only in cases which involve an issue of significant difficulty and consequently will be used in only a minority of cases. The purpose of this guidance is to ensure best practice in making such orders.
2. Paragraph 7.2 of FPR PD16A sets out an indicative list of circumstances which may justify the making of such an order. An application to make a child a party to proceedings pursuant to rule 16.4 must be made by reference to one or more of the circumstances set out in that list. The order should contain a recital stating, by reference to that list, the reason why it is considered appropriate for the child to be made a party and any particular issues requiring investigation.
3. In any particular case, the decision whether to make the child a party to the proceedings and appoint a children's guardian for him/her is for the judge alone to determine. That decision will not normally be taken by the court without first taking account of the views of CAFCASS.
4. If either:
 - (a) a section 7 report by CAFCASS recommends that the child be made a party to those proceedings; or
 - (b) at a First Hearing Dispute Resolution Appointment an officer of CAFCASS recommends that the child be made a party to those proceedings; or
 - (c) the court is satisfied that an advocate in the case has discussed the proposed appointment with the CAFCASS service manager and that he or she supports the proposed order,and the judge accepts that it is appropriate to make such an order, the child may be made a party and a children's guardian appointed for her without further reference to CAFCASS.
5. In any other case where either a party applies for an order that the child be made a party or the court itself is of the preliminary opinion that it is appropriate for the child to be made a party, the judge will either
 - (a) stand the case down whilst he or she or an advocate in the case endeavours to discuss the proposed appointment with the CAFCASS service manager, or, if time does not permit or the CAFCASS service manager is not available,
 - (b) adjourn for 14 days and direct that the CAFCASS service manager be invited to express a view on the appropriateness of the proposed order and to do so either in writing in advance of the adjourned hearing or by attending in person at the adjourned hearing.

His Honour Judge Clifford Bellamy
Designated Family Judge for Leicester
1 September 2013

Jason Dent
Leicester CAFCASS Service Manager
