

PRACTICE DIRECTION

APPLICATIONS IN THE MAGISTRATES' COURT TO ENFORCE CONTACT ORDERS.

This Practice Direction is issued by the Lord Chief Justice with the agreement of the Lord Chancellor.

1. This Practice Direction governs applications to enforce contact orders made in the magistrates' courts, and is intended to ensure they are considered by family proceedings courts.
2. Section 65(1) of the Magistrates Courts Act 1980 (the 1980 Act) lists matters which are "family proceedings" and are to be heard by family proceedings courts constituted under section 67 of the 1980 Act.
3. Proceedings for the enforcement of orders made under the Children Act 1989, including section 8 contact orders, are excepted, and are not "family proceedings".
4. Section 65(2) of the 1980 Act allows a court before which there falls to be heard proceedings for enforcement of contact orders made under the Children Act 1989 to order that they be treated as family proceedings if it thinks fit.
5. The Justices' Clerk must ensure arrangements are in place to enable the magistrates' court, on receipt of applications for the following:
 - a. enforcement orders¹
 - b. orders for compensation for financial loss²
 - c. the attachment of a warning notice to contact orders³
 - d. the revocation of enforcement orders⁴
 - e. the amendment of enforcement orders⁵
 - f. the court to exercise its powers following breach of enforcement orders⁶to consider ordering that the applications be treated as family proceedings and be listed for first hearing in a family proceedings court.
6. In all applications to which paragraph 5 above applies, the magistrates' court should exercise the power under section 65(2) of the 1980 Act to order that the application, and any allied proceedings, shall be treated as family proceedings for the purposes of the 1980 Act. Sections 66 to 74 of the 1980 Act will therefore apply to the proceedings.
7. Once the magistrates' court has ordered that the application is to be treated as family proceedings, the procedure to be followed is that set out in the Magistrates' Courts (Enforcement of Children Act 1989 Contact Orders) Rules 2008 (which apply, with modifications, the Family Proceedings Courts (Children Act 1989) Rules 1991 to such cases).

¹ Section 11J Children Act 1989 as inserted by section 4 Children and Adoption Act 2006

² Section 11O Children Act 1989 as inserted by section 5 Children and Adoption Act 2006

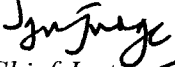
³ Section 8(2) Adoption and Children Act. Transitional Provision

⁴ Paragraph 4, Schedule A1 CA 1989

⁵ Paragraphs 5 to 7 Schedule A1 CA 1989

⁶ Paragraph 9, Schedule A1 CA 1989

8. This Practice Direction comes into force on 8th December 2008.


Lord Chief Justice