



# Courts and SARs

## Can people make a subject access request (SAR) to a court?

Yes – but the information may well be exempt, and there are other ways for people to ask for court documents.

Courts are likely to be able to rely on various exemptions from SAR rights. For example, there's a very broad exemption for courts acting in a judicial capacity see: [How does the exemption for judicial proceedings work?](#) There are also specific exemptions for health data, social work data or education data given to a court. See our guidance: [Right of access](#) | [Are there any special cases?](#)

And even without the exemptions, a SAR only gives people access to their own information, not to full copies of documents.

Instead, people can ask for court documents through separate court procedures. For example, if they need the information for their court case, they can apply under the Criminal and Civil Procedure Rules (CPR). For more information, see: [Legal concepts library](#) | [Access to court documents](#).

You should also be aware that we don't have jurisdiction if a judge, court or tribunal is acting in a judicial capacity. For more on this, see: [Can we consider complaints about judges and courts?](#)

This is a difficult area, so if you have a complaint about a court or tribunal, please ask us for advice [using this form](#).

There's also some ongoing policy work on how we interact with the courts. Please email [FOIA s.31 - Law enforcement](#) if you have any relevant case studies, or are considering any other work in this area.

See also:

[What does 'acting in a judicial capacity' mean?](#)

[What exemptions apply in connection with legal proceedings?](#)

[Who's the controller for personal information handled by the courts?](#)

[Can people make a SAR to a coroner?](#)

[Can people make a SAR to the police?](#)

Related keywords:



# Judicial exemption

## How does the exemption for judicial proceedings work?

There's a broad exemption from UK GDPR rights for people, courts or tribunals who are 'acting in a judicial capacity'. You can find this exemption in schedule 2 paragraph 14 of the DPA.

There's no prejudice test in this exemption. This means that judges, courts and tribunals are often exempt from people's rights requests. Instead, there are separate rules on how to access court documents.

And what's more, if they are acting in a judicial capacity, we don't have jurisdiction. So if the exemption's in play, we might need to advise people to complain to a specialist judicial complaints body instead. See: [Can we consider complaints about judges and courts?](#) and [What does 'acting in a judicial capacity' mean?](#)

But if a judge, court or tribunal is acting in a non-judicial capacity (eg in a purely administrative capacity), the exemption won't apply – and we also have our usual powers to consider complaints.

Other organisations (those not acting in a judicial capacity) can also use this exemption, but only if complying with data protection rights would be likely to prejudice judicial independence or judicial proceedings.

This is a difficult area, so if you have a complaint or query about a judge, court or tribunal, please [ask us for advice](#).

There's also some ongoing policy work in this area. Please email

**FOIA s.31 - Law enforcement** if you have any relevant case studies, or are considering any other work in this area.

## Law enforcement regime

It's slightly different for criminal cases, as the law enforcement regime applies to criminal courts, police and prosecutors in this context.

There's still a broad exemption for criminal proceedings, but it works slightly differently. In short, this exemption applies to any personal data contained in documents created by or on behalf of a court (or other judicial authority) and used in criminal proceedings. You can find the exemption in section 43(3) of the DPA. See our guidance: [Law Enforcement | Right of Access | What do we need to consider if personal information is processed by a court for law enforcement purposes?](#)

But again, if a judge, court or tribunal is acting in a judicial capacity, we don't have jurisdiction. This is a difficult area, so please [ask us for advice](#) and let the policy projects team know about any work on this issue.

See also:

[What exemptions apply in connection with legal proceedings?](#)

[Who's the controller for information handled by the courts?](#)

[Can people make a SAR to a court?](#)

[Can people make a SAR to a coroner?](#)

[Can courts disclose personal data?](#)

[Can organisations disclose information received by court order?](#)

[Legal concepts library | Access to court documents](#)

**Related keywords:** *s117 DPA, judicial processing workstream*



# Courts and controllership

## Who's the controller for personal information handled by the courts?

It varies by nation:

- in England and Wales, it's the Ministry of Justice (MoJ).
- in Northern Ireland, it's the Department of Justice (DoJ).
- in Scotland, it's the Scottish Courts and Tribunals Service (SCTS).

People can still contact an individual court or tribunal directly about any relevant data protection matter - but their query may be handled centrally by the relevant controller.

Most civil (non-criminal) courts fall under the UK GDPR, but criminal courts will fall under the law enforcement regime.

But be aware - we don't have jurisdiction if a judge, court or tribunal is acting in a judicial capacity. For more on this, see: [Can we consider complaints about judges and courts?](#)

This is a difficult area, so if you have a complaint about a court or tribunal, please ask us for advice [using this form](#).

See also:

[What does 'acting in a judicial capacity' mean?](#)

[How does the exemption for judicial proceedings work?](#)

[Can people make a SAR to a court?](#)

[Can people make a SAR to a coroner?](#)

[Can courts disclose personal data?](#)

[Can organisations disclose information received by court order?](#)

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Related keywords: *judiciary*



# Courts and data sharing

## Can courts disclose personal information?

Yes – it's up to the judge to decide what they can disclose, and on what terms.

For example:

- Judges can decide whether the contents of a court bundle can be shared in a public hearing. Organisations can flag any concerns, but it's up to the judge.
- Courts must publish a register of judgments, orders and fines. Decisions are only excluded in exceptional cases or if there's a specific legal exemption. The judge decides what to include in the text of the published decision. Both the register and the text of the decision usually include personal information, unless the judge grants anonymity in advance.
- Courts can also decide that information should be shared with third parties (for example, if they need it for their own court case), and can set restrictions or other terms on its use. See also: [Can organisations share information received by court order?](#)

So, organisations should flag any data protection concerns about wider disclosure when preparing court documents and may also be able to object to disclosures during proceedings. But ultimately it's the court's decision.

If a court does disclose information when acting in a judicial capacity, we don't have jurisdiction. Instead, we can advise people to go to the relevant judicial

oversight body if they have a complaint. For more on this, see: [Can we consider complaints about judges and courts?](#)

This is a difficult area, so if you have a complaint or query about a judge, court or tribunal, or are thinking of taking action on any case raising these issues, please ask us for advice [using this form](#).

There's also some ongoing policy work in this area, working with the government, courts and judicial oversight bodies. Please email [FOIA s.31 - Law enforcement](#) if you have any relevant case studies, or are considering any other work in this area.

See also:

[What does 'acting in a judicial capacity' mean?](#)

[Who's the controller for personal information handled by the courts?](#)

[Can people make a SAR to a court?](#)

[Legal concepts library](#) | [Access to court documents](#)

Related keywords: *data sharing*





## SARs to coroners

### Can people make a subject access request (SAR) to a coroner?

Yes – but as with other courts, the information may be exempt, and there are other ways to access information from coroners.

Coroners must comply with UK data protection laws. Their investigations are into the cause of someone's death and not into criminal liability, so they fall under the UK GDPR rather than the law enforcement regime.

However, coroners are part of the court system, and can rely on a broad exemption if they're acting in a judicial capacity. See: [How does the exemption for judicial proceedings work?](#)

Instead, people may be able to access information under the Coroner's (Inquests) Rules 2013. For more information on this, see: [Legal concepts library | Access to court documents](#).

You should also be aware that we don't have jurisdiction if a coroner is acting in a judicial capacity. For more on this, see: [Can we consider complaints about judges and courts?](#)

This is a difficult area, so if you have a complaint about a coroner, please ask us for advice [using this form](#).

There's also some ongoing policy work on how we interact with the courts. Please email [FOIA s.31 - Law enforcement](#) if you have any relevant case studies, or are considering any other work in this area.

See also:

Can people make a SAR to a UK court?

What does 'acting in a judicial capacity' mean?

What exemptions apply in connection with legal proceedings?

Can people make a SAR to the police?

Related keywords:

## LEGAL CONCEPT PAPER

Subject:	<b>Access to Court Documents</b>
Issue it relates to:	Information regarding access to court documents in various types of court or Tribunal.
Purpose:	This document gathers together the provisions that relate to access to court documents in various types of court or Tribunal. The rules are correct as at 8 August 2022. It does not seek to cover every type of court proceeding; if you cannot identify which Rules apply please ask and we will be happy to help.

### Access to Court Documents

This legal concept paper is intended to assist ICO staff by providing the various provisions relating to access to court documents. If you are unsure about the applicable Rules or how they apply to the information requested then please contact one of the lawyers in Regulatory Advice for assistance.

This legal concept paper will cover the following:

- [1. Criminal Proceedings](#)
- [2. Inquests](#)
- [3. Court of Protection Proceedings](#)
- [4. Civil Proceedings](#)
- [5. Supreme Court Proceedings](#)
- [6. Insolvency Proceedings](#)
- [7. Family Proceedings](#)

## 1. Criminal Proceedings (Criminal Procedure Rules 2020)

### **When the Rules apply (Rule 2.1)**

In general, the Criminal Procedure Rules apply—

- (a) in all criminal cases in magistrates' courts and in the Crown Court; and
- (b) in extradition cases in the High Court; and
- (c) in all cases in the criminal division of the Court of Appeal.

If a rule applies only in one or some of those courts, the Rules makes that clear. The Rules apply on and after 5<sup>th</sup> October 2020, but unless the court otherwise directs they do not affect a right or duty existing under The Criminal Procedure Rules 2015.

### **Supply to a party of information or documents from records or case materials (Rule 5.7)**

(1)(a) This rule applies where:

- (i) a party wants information, or a copy of a document, from records or case materials kept by the court officer (for example, in case of loss, or to establish what is retained).
- (ii) a person affected by an order made or warrant issued, by the court wants such information or such a copy

(1)(b) The rule does not apply to:

- (i) a recording arranged under rule 5.5 (Recording and transcription of proceedings in the Crown Court) a copy of such a recording, or
- (ii) transcript of such a recording

(2) Such a party must—

- (a) apply to the court officer;
- (b) specify the information or document required; and
- (c) pay any fee prescribed.

- (3) The application—
- (a) may be made orally, giving no reasons, if paragraph (4) requires the court officer to supply the information or document requested;
  - (b) must be in writing, unless the court otherwise permits, and must explain for what purpose the information is required, in any other case.
- (4) The court officer must supply to the applicant party
- (a) a copy of any document served by, or on, that party (but not of any document not so served);
  - (b) by word of mouth, or in writing, as requested—
    - (i) information that was received from that party in the first place,
    - (ii) information about the terms of any direction or order directed to that party, or made on an application by that party, or at a hearing in public,
    - (iii) information about the outcome of the case.
- (5) If the court so directs, the court officer must supply to the applicant party, by word of mouth or in writing, as requested, information that paragraph (4) does not require the court officer to supply.

**Supply to the public, including reporters, of information about a case (Rule 5.8)**

- (1) This rule
- (a) requires the supply and publication of information about cases with regard to the importance of:
    - (i) dealing with criminal cases in public, and
    - (ii) allowing a public hearing to be reported to the public
  - (b) where a member of the public, including a reporter, wants information about a case from the court officer;
  - (c) the court officer to publish information about cases due to be considered by the court; but
- (1)(d) This rule does not apply to:

- (i) a recording arranged under rule 5.5 (Recording and

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- transcription of proceedings in the Crown Court);
- (ii) a copy of such a recording, or
- (iii) a transcript of such a recording

(2) A person who wants information about a case from the court officer must:

- (a) apply to the court officer;
- (b) specify the information requested; and
- (c) pay any fee prescribed.

(3) The application:

- (a) may be made orally, giving no reasons, if –
  - (i) paragraph (4) requires the court officer to supply the information requested; and
  - (ii) the information is to be supplied only by word of mouth; but
- (b) must be in writing, unless the court otherwise permits, and must explain for what purpose the information is required, in any other case.

(4) The court officer must supply to the applicant—

- (a) any information listed in paragraph (6), if—
  - (i) the information is available to the court officer,
  - (ii) the supply of the information is not prohibited by a reporting restriction, and
  - (iii) the trial has not yet concluded, or the verdict was not more than 6 months ago; and
- (b) details of any reporting or access restriction ordered by the court

(5) The court officer will supply that information—

- (a) by word of mouth; or
- (b) in writing, including by –
  - (i) written certificate or extract, or
  - (ii) such arrangements as the Lord Chancellor directs

- (6) The information that paragraph (4) requires the court officer to supply is—
- (a) the date of any hearing in public, unless any party has yet to be notified of that date;
  - (b) each alleged offence and any plea entered;
  - (c) the court's decision at any hearing in public, including any decision about—
    - (i) bail, or
    - (ii) the committal, sending or transfer of the case to another court;
  - (d) whether the case is under appeal;
  - (e) the outcome of the case; and
  - (f) the identity of—
    - (i) the prosecutor,
    - (ii) the defendant,
    - (iii) the parties' representatives, including their addresses, and
    - (iv) the judge, magistrate or magistrates, or justices' legal adviser by whom a decision at a hearing in public was made.
  - (g) such other information about the case as is required by arrangements made under paragraph 5(b)(ii)
- (7) If the court so directs, the court officer will—
- (a) supply to the applicant, by word of mouth or in writing (including by written certificate or extract), other information about the case; or other information about the case; or
  - (b) allow the applicant to inspect or copy a document, or part of a document, containing information about the case.
- (8) The court may determine an application to which paragraph (7) applies—
- (a) at a hearing, in public or in private; or
  - (b) without a hearing.

*[Note. The supply of information about a case is affected by—*

- (a) *Articles 6, 8 and 10 of the European Convention on Human Rights, and the court's duty to have regard to the importance of—*
  - (i) *dealing with criminal cases in public, and*
  - (ii) *allowing a public hearing to be reported to the public;*
- (b) *the Rehabilitation of Offenders Act 1974 (section 5 of the Act lists sentences and rehabilitation periods);*
- (c) *section 18 of the Criminal Procedure and Investigations Act 1996;*
- (d) *Part 3 of the Data Protection Act 2018 (sections 43(3) and 117 of which make exceptions for criminal proceedings from some other provisions of that Act); and (f) sections 33, 34 and 35 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which affect the supply of information about applications for legal aid.]*

## **Recording and transcription of proceedings in the Crown Court (Rule 5.5)**

- (1) Where someone may appeal to the Court of Appeal, the court officer must –
  - (a) arrange for the recording of the proceedings in the Crown Court, unless the court otherwise directs; and
  - (b) arrange for the transcription of such a recording if –
    - (i) the Registrar wants such a transcript, or
    - (ii) anyone else wants such a transcript (but that is subject to the restrictions in paragraph (2)).
- (2) Unless the court otherwise directs, a person who transcribes a recording of proceedings under such arrangements –
  - (a) may only supply a transcript of a recording of a hearing in private to –
    - (i) the Registrar, or
    - (ii) an individual who was present at that hearing;
  - (b) if the recording of a hearing in public contains information to which reporting restrictions apply, may only supply a transcript containing that information to –
    - (i) the Registrar, or
    - (ii) a recipient to whom that supply will not contravene those reporting restrictions; but
  - (c) subject to paragraph (2)(a) and (b), must supply any person with any transcript for which that person asks –



- (i) in accordance with the transcription arrangements made by the court officer, and
  - (ii) on payment by that person of any fee prescribed .
- (3) A party who wants to hear a recording of proceeding must –
  - (a) apply –
    - (i) in writing to the Registrar, if an appeal notice has been served where Part 36 applies (Appeal to the Court of Appeal: general rules) or
    - (ii) orally or in writing to the Crown Court officer;
  - (b) explain the reasons for the request; and
  - (c) pay any fee prescribed
- (4) If the Crown Court or the Registrar so directs, the Crown Court officer must allow that party to hear a recording of –
  - (a) a hearing in public; and
  - (b) a hearing in private, if the applicant was present at that hearing

Please note that an application for a transcript can be made at a court if the hearing was recorded. Hearings at magistrate's courts are never recorded and accordingly it is not possible to apply for a transcript.

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## 2. Inquests (The Coroners (Inquests) Rules 2013)

### **When the Rules apply (Rule 3)**

The Rules apply to any inquest which has not been completed before 25 July 2013 (Rule 3.1). Any direction, time limit, adjournment or other decision made by the coroner in relation to an inquest made before 25 July 2013 shall stand (Rule 3.2)

### **Disclosure of documents at the request of an interested person (Rule 13)**

Rule 13(1) provides that, subject to rule 15, the coroner must provide that document or a copy of that document, or make the document available for inspection by that person as soon as is reasonably practicable

Rule 13(2) states that documents to which this rule applies include –

- (a) any post-mortem examination report;
- (b) any other report that has been provided to the coroner during the course of the investigation;
- (c) where available, the recording of any inquest hearing held in public, but not in relation to any part of the hearing from which the public was excluded under rule 11(4) or (5);
- (d) any other document which the coroner considers relevant to the inquest

### **Managing disclosure (Rule 14)**

Rule 14 provides that a coroner may-

- (a) disclose an electronic copy of a document instead of, or in addition to, a paper copy;
- (b) disclose a redacted version of all or part of a document; or
- (c) make a document available for inspection at a particular time and place

### **Restrictions on disclosure (Rule 15)**

Rule 15 provides that a coroner may refuse to provide a document or a copy of a document requested under Rule 13 where –

- (a) there is a statutory or legal prohibition on disclosure;
- (b) the consent of any author or copyright owner cannot reasonably be obtained;
- (c) the request is unreasonable;
- (d) the document relates to contemplated or commenced criminal proceedings; or
- (e) the coroner considers the document irrelevant to the investigation

### **Costs of disclosure (Rule 16)**

Rule 16 provides that a coroner may not charge a fee for any document or copy of any document, disclosed to an interested person before or during an inquest.

## **“Interested persons” (Section 47 Coroners Act 2009)**

An “interested person” is defined in section 47(2) of the Coroners Act 2009 as:

- (a) a spouse, civil partner, partner, parent, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother or half-sister;
- (b) a personal representative of the deceased;
- (c) a medical examiner exercising functions in relation to the death of the deceased;
- (d) a beneficiary under a policy of insurance issued on the life of the deceased;
- (e) the insurer who issued such a policy of insurance;
- (f) a person who may by any act or omission have caused or contributed to the death of the deceased, or whose employee or agent may have done so;
- (g) in a case where the death may have been caused by-
  - (i) an injury received in the course of an employment, or
  - (ii) a disease prescribed under section 108 of the Social Security Contributions and Benefits Act 1992 (c.4 benefit in respect of prescribed industrial diseases etc)

a representative of a trade union of which the deceased was a member at the time of death;

- (h) a person appointed by, or representative of, an enforcing authority;
- (i) where subsection (3) applies, a chief constable (ie where it appears that a person has or may have committed (a) a homicide offence involving the death of the deceased, or (b) a related offence (other than a service offence))
- (j) where subsection (4) applies, a Provost Marshal (ie where it appears that a person has or may have committed (a) the service equivalent of a homicide offence involving the death of the deceased, or (b) a service offence that is a related offence).
- (k) Where subsection (5) applies, the Director General of the Independent Office for Police Conduct (ie where the death of the deceased is or has been the subject of an investigation manager or carried out by the Director General of the Independent Office for Police Conduct in accordance with Part 3 of Schedule 3 to the Police Reform Act 2002).
- (l) A person appointed by a Government department to attend an inquest into the death or to assist in, or provide evidence for the purposes of, an investigation into the death under this Part;

- (m) Any other person who the senior coroner thinks has a sufficient interest

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### 3. Court of Protection Proceedings (Court of Protection Rules 2017)

#### **Supply of documents to a party from court records (Rule 5.8)**

Unless the court orders otherwise, a party to proceedings may inspect  
or obtain from the records of the court a copy of—

- (a) any document filed by a party to the proceedings; or
- (b) any communication in the proceedings between the court and—
  - (i) a party to the proceedings; or
  - (ii) another person.

#### **Supply of documents to a non-party from court Records (Rule 5.9)**

- (1) Subject to rules 5.12 and 4.3(2), a person who is not a party to proceedings may inspect or obtain from the court records a copy of any judgment or order given or made in public.
- (2) The court may, on an application made to it, authorise a person who is not a party to proceedings to—
  - (a) inspect any other documents in the court records; or
  - (b) obtain a copy of any such documents, or extracts from such documents.
- (3) A person making an application for an authorisation under paragraph (2) must do so in accordance with Part 10.
- (4) Before giving an authorisation under paragraph (2), the court will consider whether any document is to be provided on an edited basis.

Notes: Rule 5.12 provides for the provision on information to the public guardian and Rule 43(2) provides for the Court to order a hearing to take place in public and then to restrict publication of information.

## 4. Civil Proceedings (Civil Procedure Rules 1998)

### When the Rules apply (Rule 2.1)

Rule 2.1 provides that subject to paragraph (2), the Rules apply to all proceedings in

- (a) county courts
- (b) the High Court; and
- (c) the Civil Division of the Court of Appeal.

(2) These Rules do not apply to proceedings of the kinds specified in the first column of the following table (proceedings for which rules may be made under the enactments specified in the second column) except to the extent that they are applied to those proceedings by another enactment–

Proceedings	Enactments
1. Insolvency proceedings	Insolvency Act 1986 <sup>1</sup> , ss.411 and 412
2. Non-contentious or common form probate proceedings	Supreme Court Act 1981 <sup>2</sup> , s.127
3. Proceedings in the High Court when acting as a Prize Court	Prize Courts Act 1894 <sup>3</sup> , s.3
4. Proceedings before the Court of Protection	Mental Capacity Act 2005 <sup>4</sup> , s.51
5. Family proceedings	Matrimonial and Family Proceedings Act 1984 <sup>5</sup> , s.40
6. Adoption proceedings	Adoption Act 1976 <sup>6</sup> , s.66 or Adoption and Children Act 2002, s.141(c) <sup>7</sup> .
7. Election petitions in the High Court	Representation of the People Act 1983 <sup>8</sup> , s.182

### Supply of documents to a party from court records (Rule 5.4B)

- (1) A party to proceedings may, unless the court orders otherwise, obtain from the records of the court a copy of any document listed in paragraph 4.2A of Practice Direction 5A.
- (2) A party to proceedings may, if the court gives permission, obtain from the records of the court a copy of any other document filed by a party or communication between the court and a party or another person.

### **Supply of documents to a non-party from court Records (Rule 5.4C)**

- (1) The general rule is that a person who is not a party to proceedings may obtain from the court records a copy of –
  - (a) a statement of case, but not any documents filed with or attached to the statement of case, or intended by the party whose statement it is to be served with it;
  - (b) a judgment or order given or made in public (whether made at a hearing or without a hearing), subject to paragraph (1B)
- (1A) Where a non-party seeks to obtain a copy of a statement of case filed before 2nd October 2006 –
  - (a) this rule does not apply; and
  - (b) the rules of court relating to access by a non-party to statements of case in force immediately before 2nd October 2006 apply as if they had not been revoked.

(The rules relating to access by a non-party to statements of case in force immediately before 2nd October 2006 were contained in the former rule 5.4(5) to 5.4(9). Practice Direction 5A sets out the relevant provisions as they applied to statements of case.)

- (1B) No document –
  - (a) relating to an application under rule 78.24(1) for a mediation settlement enforcement order;
  - (b) annexed to a mediation settlement enforcement order made under rule 78.24(5);
  - (c) relating to an application under rule 78.26(1) or otherwise for disclosure or inspection of mediation evidence; or
  - (d) annexed to an order for disclosure or inspection made under rule 78.26 or otherwise,

may be inspected without the court's permission .

- (2) A non-party may, if the court gives permission, obtain from the records of the court a copy of any other document filed by a party, or communication between the court and a party or another person.
- (3) A non-party may obtain a copy of a statement of case or judgment or order under paragraph (1) only if –
  - (a) where there is one defendant, the defendant has filed an acknowledgment of service or a defence;
  - (b) where there is more than one defendant, either –
    - (i) all the defendants have filed an acknowledgment of service or a defence;
    - (ii) at least one defendant has filed an acknowledgment of service or a defence, and the court gives permission;
  - (c) the claim has been listed for a hearing; or
  - (d) judgment has been entered in the claim.
- (4) The court may, on the application of a party or of any person identified in a statement of case –
  - (a) order that a non-party may not obtain a copy of a statement of case under paragraph (1);
  - (b) restrict the persons or classes of persons who may obtain a copy of a statement of case;
  - (c) order that persons or classes of persons may only obtain a copy of a statement of case if it is edited in accordance with the directions of the court; or
  - (d) make such other order as it thinks fit.
- (5) A person wishing to apply for an order under paragraph (4) must file an application notice in accordance with Part 23.
- (6) Where the court makes an order under paragraph (4), a non-party who wishes to obtain a copy of the statement of case, or to obtain an unedited copy of the statement of case, may apply on notice to the party or person identified in the statement of case who requested the order, for permission.

### **Supply of documents from court records – general (Rule 5.4D)**

- (1) A person wishing to obtain a copy of a document under rule 5.4B or rule 5.4C must pay any prescribed fee and –
  - (a) if the court's permission is required, file an application notice in accordance with Part 23; or

- (b) if permission is not required, file a written request for the document.
- (2) An application for an order under rule 5.4C(4) or for permission to obtain a copy of a document under rule 5.4B or rule 5.4C (except an application for permission under rule 5.4C(6)) may be made without notice, but the court may direct notice to be given to any person who would be affected by its decision.
- (3) Rules 5.4, 5.4B and 5.4C do not apply in relation to any proceedings in respect of which a rule or practice direction makes different provision.

### **Recording and transcription of proceedings (Rule 39.9)**

- (1) At any hearing whether in the High Court or the County Court, the proceedings will be tape recorded or digitally recorded unless the judge directs otherwise;
- (2) No party or member of the public may use unofficial recording equipment in any court or judge's room without the permission of the court. (To do so without permission constitutes a contempt of court under section 9 of the Contempt of Court Act 1981(1)).
- (3) Any party or person may require a transcript or transcripts of the recording of any hearing to be supplied to them, upon payment of the charge authorised by any scheme in force for the making of the recording or the transcript (paragraph 6(2) of Practice Direction 52C (Appeals to the Court of Appeal) deals with the provision of transcripts for use in the Court of Appeal at public expense). Where the person requiring the transcript or transcripts is not a party to the proceedings and the hearing or any part of it was held in private under rule 39(2), paragraph (3) of this rule does not apply unless the court so orders.
- (4) At any hearing, whether in public or in private, the judge may give appropriate directions to assist a party, in particular one who is or has been or may become unrepresented, for the compilation and sharing of any note or other informal record of the proceedings made by another party or by the court.

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## 5. Supreme Court Proceedings (The Supreme Court Rules 2009)

### **When the rules apply (Rule 2)**

- (1) These Rules apply to civil and criminal appeals to the Court and to appeals and references under the Court's devolution jurisdiction.

### **Disposal of documents (Rule 39)**

- (1) All documents filed become the property of the Court and original documents must be retained in the records of the Registry.
- (2) Other documents shall be destroyed unless the Registrar (on a written application made within 21 days of the end of the proceedings) directs otherwise.
- (3) All documents held by the Court may be inspected by the press or members of the public on application to the Registrar but the Registrar may refuse an application for reasons of commercial confidentiality, national security or in the public interest
- (4) Before allowing an application for inspection under this rule, the Registrar may impose terms or conditions such as the redaction of certain material where such a condition is necessary in the interests of justice or in the public interest.

### **Transcriptions (Practice Direction 6.6.6 Supreme Court Practice Directions)**

If a party wishes to have a stenographer present at the hearing or to obtain a full transcript of the hearing, he must notify the Registrar not less than 7 days before the hearing. Any costs of the stenographer or of transcription must be borne by the party making such a request.

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## 6. Insolvency Proceedings (The Insolvency (England and Wales) Rules 2016)

### When the rules apply (Rule 3)

- (1) These Rules extend to England and Wales only
- (2) These Rules as they relate to company voluntary arrangements under Part 1 of the Act, administration under Part 2 of the Act and winding up under Parts 4 and 5 of the Act apply in relation to companies which the courts in England and Wales have jurisdiction to wind up.
- (3) These Rules do not apply to receivers appointed under section 51 (Scottish receivership)

### The Court file (Rule 12.39)

- (1) Where documents are filed with the court under the Act or these Rules, the court must open and maintain a court file and place these documents on the file.
- (2) However where a bankruptcy file has been opened under rule 10.47, documents filed with the court under the Act or these Rules must be placed on the bankruptcy file.
- (3) The following may inspect the court file, or obtain from the court a copy of the court file, or of any document in the court file –
  - (a) the office-holder in the proceedings;
  - (b) the Secretary of State; and
  - (c) a creditor who provides the court with a statement confirming that that person is a creditor of the company or the individual to whom the proceedings relate
- (4) The same right to inspect or obtain a copy of, or a copy of any document or documents contained in, the file opened in accordance with paragraph (1) is exercisable—
  - (a) in proceedings under Parts 1 to 7 of the Act, by—
    - (i) an officer or former officer of the company to which the proceedings relate; or
    - (ii) a member of the company or a contributory in its winding up;
  - (b) in proceedings relating to an IVA by the debtor;
  - (c) in bankruptcy proceedings, by—
    - (i) the bankrupt;

- (ii) any person against whom a bankruptcy petition has been presented;
  - (iii) any person who has been served with a statutory demand under section 268;
- (d) in proceedings relating to a debt relief order, by the debtor.
- (5) The right to inspect and obtain copies may be exercised on a person's behalf by someone authorised to do so by that person.
- (6) Other persons may inspect the file or obtain copies if the court gives permission.
- (7) The right to a copy of a document is subject to payment of the fee chargeable under an order made under section 92 of the Courts Act 2003.
- (8) Inspection of the file, with permission if required, may be at any reasonable time.
- (9) The court may direct that the file, a document (or part of it) or a copy of a document (or part of it) must not be made available under paragraph (3), (4) or (5) without the permission of the court.
- (10) An application for a direction under paragraph (9) may be made by—
  - (a) the official receiver;
  - (b) the officer-holder in the proceedings;
  - (c) any person appearing to the court to have an interest.
- (11) The following applications may be made without notice to any other party, but the court may direct that notice must be delivered to any person who would be affected by its decision –
  - (a) an application for permission to inspect the file or obtain a copy of a document under paragraph (6); and
  - (b) an application for a direction under paragraph (9)
- (12) If, for the purposes of powers conferred by the Act or these Rules, the Secretary of State or the official receiver makes a request to inspect or requests the transmission of the file of insolvency proceedings, the court must comply with the request (unless the file is for the time being in use for the court's own purposes).

### **Right to office copies of documents (Rule 12.40)**

- (1) The Court must provide an office copy of a document from the court file to a person who has under these Rules the right to inspect the court file where that person has requested such a copy and paid the appropriate fee under rule 12.39(7).

- (2) A person's right under this Rule may be exercised on that person's behalf by someone authorised to do so by that person.
- (3) An office copy must be in such form as the registrar or District Judge thinks appropriate and must bear the court's seal.

### **Confidentiality of documents—grounds for refusing inspection (Rule 1.58)**

- (1) Where an office-holder considers that a document forming part of the records of the insolvency proceedings—
  - (a) should be treated as confidential, or
  - (b) is of such a nature that its disclosure would be prejudicial to the conduct of the proceedings or might reasonably be expected to lead to violence against any person,the office-holder may decline to allow it to be inspected by a person who would otherwise be entitled to inspect it.
- (2) The persons to whom the office-holder may refuse inspection include members of a liquidation committee or a creditors' committee.
- (3) Where under the office-holder refuses inspection of a document, the person wishing to inspect it may apply to the court which may reconsider the office-holder's decision.
- (4) The court's decision may be subject to such conditions (if any) as it thinks just.

### **Right to office copies of documents (Rule 12.40)**

- (4) The Court must provide an office copy of a document from the court file to a person who has under these Rules the right to inspect the court file where that person has requested such a copy and paid the appropriate fee under rule 12.39(7).
- (5) A person's right under this Rule may be exercised on that person's behalf by someone authorised to do so by that person.
- (6) An office copy must be in such form as the registrar or District Judge thinks appropriate and must bear the court's seal.

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## 7. Family Proceedings (Family Procedure Rules 2010)

These Rules cover many different types of family proceedings. Care should, therefore, be taken to ensure that the correct Part is applied. If you are in doubt as to the proper nature of the proceedings or the correct Rule to apply, please speak to one of the Regulatory advice lawyers.

### **When the Rules apply (Rule 2.1)**

- (1) Unless the context otherwise requires, these rules apply to family proceedings in—
  - (a) the High Court;
  - (b) the family court

Family proceedings are defined in section 63(1) Family Law Act 1996 as any proceedings:

- (a) under the inherent jurisdiction of the High Court in relation to children; or
- (b) under the enactments mentioned in subsection (2)

### **Records of decrees absolute and final orders (Rule 7.36)**

- (1) A central index of decrees absolute and final orders must be kept under the control of the principal registry.
- (2) Any person. . . may require a search to be made of that index and to be provided with a certificate showing the results of that search.
- (3) Any person who requests it must. . . be issued with a copy of the decree absolute or final order.

### **Communication of Information: Children's proceedings (Rule 12.73)**

- (1) For the purposes of the law relating to contempt of court, information relating to proceedings held in private (whether or not contained in a document filed with the court) may be communicated—

(a) where the communication is to—

- (i) a party;
- (ii) the legal representative of a party;
- (iii) a professional legal adviser;
- (iv) an officer of the service or a Welsh family proceedings officer;
- (v) the welfare officer;
- (vi) the Director of Legal Aid Casework (within the meaning of section 4 of the Legal Aid Sentencing and Punishment of Offenders Act 2012);
- (vii) an expert whose instruction by a party has been authorised by the court for the purposes of the proceedings;
- (viii) a professional acting in furtherance of the protection of children;
- (ix) an independent reviewing officer appointed in respect of a child who is, or has been, subject to proceedings to which this rule applies;

(b) where the court gives permission; or

(c) subject to any direction of the court, in accordance with rule 12.75 and Practice Direction 12G.

- (2) Nothing in this Chapter permits the communication to the public at large, or any section of the public, of any information relating to the proceedings.
- (3) Nothing in rule 12.75 and Practice Direction 12G permits the disclosure of an unapproved draft judgment handed down by any court.

**Documents held by the court not to be inspected or copied without the court's permission (Proceedings under Section 54 of the Human Fertilization and Embryology Act 2008 (Part 13) (Rule 13.19))**

Subject to the provisions of these rules, any practice direction or any direction given by the court—

- (a) no document or order held by the court in parental order proceedings and related proceedings under the 2002 Act will be open to inspection by any person; and
- (b) copy of any such document or order, or of an extract from any such document or order, shall be taken by or given to any person.

**Documents held by the court not to be inspected or copied without the court's permission (Procedure for applications in adoption, placement and related proceedings (Part 14)(Rule 14.2)**

Subject to the provisions of these rules, any practice direction or any direction given by the court—

- (a) no document or order held by the court in proceedings under the 2002 Act will be open to inspection by any person; and
- (b) no copy of any such document or order, or of an extract from any such document or order, will be taken by or given to any person.

(3) a copy of any final order may be sent to any other person with permission of the court (Rule 14.26).

**Access to and inspection of documents retained in court (Rule 29.12)**

- (1) Except as provided by this rule or by any other rule or Practice Direction, no document filed or lodged in the court office shall be open to inspection by any person without the permission of the court, and no copy of any such document shall be taken by, or issued to, any person without such permission.
- (2) A copy of an order made in open court will be issued to any person who requests it.
- (3) Subject to rules 14.24 and 29.1(2) and to any direction given by the court, a party to any family proceedings, or the legal representative, children's guardian or litigation friend for a party in any family proceedings, may have a search made for, and may inspect, and obtain a copy of, any document filed or lodged in the court office in those proceedings.
- (4) Any person who intends to make an application in relation to a child under the 1980 Hague Convention in a Contracting State (as defined in rule 12.44) other than the United Kingdom shall, if the court is satisfied that that person intends to make such an application, be entitled to obtain a copy bearing the seal(GL) of the court of any order made in relation to the child under the 1989 Act or under the inherent jurisdiction, whether or not that person was a party to the proceedings in which the order was made.

## **Recording, transcription and informal note of proceedings (Rule 27.9)**

- (1) At any hearing, the proceeding will be tape recorded or digitally recorded unless the court directs otherwise;
- (2) No party or member of the public may use unofficial recording equipment in any court without the permission of the court (To do so without permission constitutes a contempt of court under section 9 of the Contempt of Court Act 1981).
- (3) Unless the court directs otherwise, a person to whom paragraph (4) applies may require a transcript of the recording of any hearing in proceedings to be supplied to them, upon payment of the charge authorised by any scheme in force for the making of the recording or the transcript.
- (4) This paragraph applies to –
  - (a) a party to the proceedings;
  - (b) the Queen’s Proctor; and
  - (c) where a declaration of parentage has been made under section 55A of the 1986 Act, the Registrar General.
- (5) A person to whom paragraph (4) does not apply may be provided with a transcript of the recording of any hearing –
  - (a) with the permission of the court; and
  - (b) upon payment of the charges authorised by any scheme in force for the making of the recording or the transcript;
  - (c) at any hearing, the court may give appropriate directions to assist a party, in particular one who is or has been or may become unrepresented, for the compilation and sharing of a note or other informal record of the proceedings made by another party.

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