EXPLANATORY MEMORANDUM TO

THE FAMILY PROCEDURE (AMENDMENT NO. 2) RULES 2026

2026 No. 1124

1. Introduction

1.1 This Explanatory Memorandum has been prepared by Ministry of Justice and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Minister Jake Richards, Parliamentary Under Secretary of State at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

2.2 Rachel Pascual, Deputy Director for Family Justice Policy at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The Family Procedure Rule Committee Secretariat at the Ministry of Justice can be contacted by email at the following address with any queries regarding the instrument: FPRCSecretariat@justice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Family Procedure (Amendment No. 2) Rules 2026 ("the 2026 Rules") amend the Family Procedure Rules 2010 ("FPR") which, with supporting Practice Directions, set out the practice and procedure to be followed in family proceedings in the High Court and the family court.

4.2 The 2026 Rules support the implementation of section 18 of the Victims and Prisoners Act 2024 ("the VAP Act 2024"), commonly known as "Jade's Law". They amend the FPR to ensure practice and procedure is clear for when the family court review a prohibited steps order ("PSO") made by the Crown Court under section 10A(3) of the Children Act 1989 ("the CA 1989"), and for applications to vary or discharge the PSO before that review has taken place. The amendments identify the parties to those proceedings, clarify responsibility for service and ensure that relevant existing provisions in Part 12 FPR apply to Jade's Law cases.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The FPR are amended from time to time to reflect legislative changes and decisions of the courts or to improve the efficiency of the procedure and practice in family proceedings in the family court and High Court.

5.2 Section 18 of the VAP Act 2024 inserts sections 10A and 10B into the CA 1989. New section 10A requires the Crown Court, where the statutory conditions are met, to make a PSO restricting the exercise of parental responsibility by a parent convicted for the murder of the other parent or of manslaughter in the circumstances specified in section 10A(2) of the CA 1989. In the case of manslaughter, the PSO should not be made if it is not in the interests of justice to do so. Section 10B requires the relevant local authority, as defined in the legislation, to apply to the family court or the High Court for the order to be reviewed as soon as reasonably practicable, and in any event, within 14 calendar days starting from the day after the PSO is made. By operation of rule 5.4 FPR (subject to limited exceptions) where both the family court and High Court have jurisdiction, proceedings must be started in the family court, so applications will be made to the family court. A further application to review the PSO must be made, also as soon as practicable, but in any case, within 14 days, if the parent subject to the PSO is subsequently acquitted.

5.3 The 14 calendar days requirement reflects the sensitive and urgent nature of these cases and is intended to ensure that the family court reviews the order promptly, without placing the burden on the bereaved family to initiate proceedings. If the relevant local authority does not make the application within that period, this does not affect the validity or continued operation of the PSO made by the Crown Court. The local authority remains under a statutory duty to make the application as soon as reasonably practicable.

5.4 The operational process supporting section 10A and 10B of the CA 1989 has been designed to ensure that the relevant local authority is notified when a PSO is made and when a person is acquitted of the relevant offence, and receives the information necessary to fulfil its statutory duty to apply for the family court's review of the order. Supporting forms, notifications and guidance have been developed across the criminal and family justice systems to support timely information sharing and the effective operation of the new process.

5.5 The relevant local authority is the local authority within whose area the child(ren) involved is ordinarily resident, or in the absence of such local authority, the local authority in England and Wales within whose area the child(ren) is present.

5.6 The family court must then review the PSO and it can then use existing powers to make any relevant orders, including potentially varying or discharging the PSO, if it is in the best interests of the child to do so. The 2026 Rules make the procedural changes needed to the FPR for those proceedings to be managed under the existing framework for private law proceedings relating to children.

5.7 The amendments provide that the relevant local authority is the applicant in the proceedings for the review of the PSO. They also identify the respondents to those proceedings, including persons with parental responsibility for the child, which would include the convicted parent. Where the child is subject to a care order, the respondents also include persons whom the applicant believes had parental responsibility for the child immediately before the care order was made. A person

whom the applicant believes is caring for the child will also be a respondent if that person is a relative of the child within the meaning of section 105(1) of the CA 1989.

5.8 The amendments also make provision for who the parties are when applications by the convicted parent or another person to vary or discharge the PSO are made before the conclusion of the family court review. The relevant local authority will be a respondent in these cases along with those listed as respondents in the paragraph above. The applicant can be any person who is entitled to apply for a section 8 order for the relevant child under section 10(4) to (7) CA 1989 or any other person if the court gives permission.

5.9 Alongside this the amendments to the FPR provide for different service arrangements depending on how proceedings are initiated. Where the relevant local authority makes the application, it will be responsible for service. Where the convicted parent or other person applies to vary or discharge the PSO before the family court conclude review proceedings, the court will ordinarily undertake service, unless the court directs otherwise.

5.10 Rule 12.2 FPR is amended to make clear that proceedings for the review of the PSO made under section 10A(3) of the CA 1989 fall within the existing private law procedural framework for section 8 proceedings. Rule 12.16(1) FPR is amended to make clear that proceedings for the review of a PSO made under section 10A(3) of the CA 1989 cannot be made without notice, unlike many other section 8 order proceedings, including proceedings for the variation or discharge of the PSO made under section 10A(3). This is because the obligation to make the application comes from statute and so respondents will already be aware that the application will be made. Rule 12.19(1) FPR is amended to make clear that that the existing provision concerning additional evidence applies to those review proceedings to avoid any risk that proceedings for a section 8 order will be read as not including these review proceedings.

5.11 The measure in the VAP Act 2024 followed concerns raised by bereaved families about convicted persons continuing to exercise unrestricted parental responsibility after killing the child's other parent. It is intended to reduce the emotional trauma and practical burden on bereaved families by removing the need for them to initiate court proceedings themselves to restrict the convicted parent's exercise of parental responsibility.

What was the previous policy, how is this different?

5.12 Under the CA 1989 the court may restrict a person's exercise of parental responsibility by making a PSO. In some circumstances, depending on the statutory basis on which parental responsibility was acquired, the court may also bring parental responsibility to an end. Previously, a bereaved family member or another eligible person, subject to permission, would ordinarily have needed either to initiate family proceedings, or seek an order in existing proceedings, to secure restrictions on the convicted parent's exercise of parental responsibility. In situations where one parent had killed the other, this placed an emotional and financial burden on the bereaved families of the deceased to make applications to protect surviving children from the convicted person continuing to fully exercise parental responsibility over them, for example by requesting information about the child from their school or preventing the child from undertaking certain activities.

5.13 Section 18 of the VAP Act 2024 creates a new process under which the Crown Court must make a PSO where the statutory conditions are met. The relevant local authority

must then apply to the family court for the order to be reviewed. The 2026 Rules adapt the existing private law framework in the FPR to reflect the new statutory roles and routes by which an application may be made. As such, the bereaved family does not have to make the application or pay the application fee in order to protect the children.

6. Legislative and Legal Context

How has the law changed?

6.1 The FPR and amendments to them are made by the Family Procedure Rule Committee ("the FPR Committee") and are formally allowed by the Lord Chancellor.

6.2 Section 18 of the VAP Act 2024 inserts new sections 10A and 10B into the CA 1989. New section 10A provides for the Crown Court to make a PSO restricting the exercise of parental responsibility where the statutory conditions are met. New section 10B requires the relevant local authority to apply to the family court for the order to be reviewed.

6.3 The 2026 Rules amend the definition of "private law proceedings" in rule 12.2 FPR to make clear that references to "a section 8 order" include proceedings for the review of a PSO made under section 10A(3) of the CA 1989.

6.4 Rule 12.3 FPR is amended to identify the applicants and respondents in proceedings to review, vary or discharge such an order. For the mandatory review, the relevant local authority is the applicant. The respondents include every person whom the applicant believes has parental responsibility for the child, including a person whose parental responsibility has been restricted under section 10A of the CA 1989. Where the child is subject to a care order, the respondents also include every person whom the applicant believes had parental responsibility immediately before that order was made. A person whom the applicant believes is caring for the child will also be a respondent if that person is a relative of the child within the meaning of section 105(1) of the CA 1989.

6.5 Where an application is made to vary or discharge the Crown Court order before it has been reviewed or varied by the family court, the applicant may be a person who is entitled to apply for a section 8 order under section 10(4) to (7) of the CA 1989 or, with the court's permission, another person. The relevant local authority and the persons listed as respondents in the paragraph above will be respondents.

6.6 Rule 12.8 FPR is amended to provide for service. Where the relevant local authority makes an application to review the PSO, it will be responsible for service. Where the convicted parent or another person applies to vary or discharge the order before the family court have concluded their review, service will ordinarily be undertaken by the court, unless the court directs the applicant to do so.

6.7 Rule 12.16(1) FPR is amended to make clear that proceedings for the review of a PSO made under section 10A(3) of the CA 1989 cannot be made without notice, unlike many other section 8 order proceedings, including proceedings for the variation or discharge of the PSO made under section 10A(3). Rule 12.19(1) FPR is amended to make clear that that the existing provision concerning additional evidence applies to those review proceedings.

Why was this approach taken to change the law?

6.8 Amendments to the FPR are necessary to ensure that applications under new sections 10A and 10B of the CA 1989 are able to operate within existing practice and

procedure in the FPR for section 8 order applications. The approach taken adapts the existing procedural framework for private law proceedings relating to children rather than creating a separate procedure. This provides consistency with other section 8 proceedings while making specific provision for the features of Jade's Law cases, including the relevant local authority's statutory role, the identity of the parties and the different service arrangements.

7. Consultation

Summary of consultation outcome and methodology

7.1 The FPR Committee must, before making new rules, consult such persons as they consider appropriate (section 79(1)(a) Courts Act 2003).

7.2 The FPR Committee conducted a targeted stakeholder consultation on the proposed amendments to the FPR and associated Practice Directions required to support the implementation of section 18 of the VAP Act 2024. The consultation ran for six weeks, from 12 May 2026 to 22 June 2026. A small number of stakeholders were granted short extensions, with the final extended deadline being 2 July 2026.The consultation asked whether respondents had any feedback on the proposed approach and the resulting amendments to Part 12 FPR and Practice Directions 3A, 5A, 12B, 12B (Pilot) and 12J.

7.3 The following stakeholders were consulted:

7.3.1 The Association of Directors of Children's Services.

7.3.2 The Association of Directors of Social Services Cymru

7.3.3 The Local Government Association.

7.3.4 The Council of HM Circuit Judges.

7.3.5 The Association of HM District Judges.

7.3.6 High Court Judges.

7.3.7 Judicial College.

7.3.8 Resolution.

7.3.9 The Association of Lawyers for Children.

7.3.10 The Family Law Bar Association.

7.3.11 The Law Society.

7.3.12 Cafcass.

7.3.13 Cafcass Cymru.

7.3.14 Social Work England.

7.3.15 The British Association of Social Workers.

7.3.16 The Family Justice Council.

7.3.17 Justices' Clerks Society.

7.3.18 Judiciary (including Designated Family Judges, Resident Judges and the Lead Magistrate).

7.3.19 Domestic abuse and victims' organisations (including Women's Aid).

7.3.20 The Domestic Abuse Commissioner's Office, and

7.3.21 His Majesty's Prison and Probation Service.

7.4 Eight responses were received. These were collated and analysed by officials and considered by the FPR Committee and its Domestic Abuse Working Group. Respondents were broadly supportive of the proposed amendments and the underlying policy intention. They also welcomed the introduction of bespoke application forms and the proposed procedural framework.

7.5 The main issues raised on consultation concerned judicial allocation and case management, the participation of people caring for the child, the role of local authorities, service of applications, safeguarding arrangements and the application of Practice Direction 12J (which makes provision in relation to certain proceedings relating to children where domestic abuse is an issue). Respondents also raised wider issues concerning legal aid and information sharing between the criminal and family justice systems.

7.6 Following consultation, the proposed rule 12.3 FPR amendment was changed to include as a respondent a person whom the applicant believes is caring for the child, where that person is a relative of the child.

7.7 The amendments to the service provisions in the FPR were also revised so that the relevant local authority is responsible for service where it makes the statutory review application, while the court will ordinarily undertake service where the convicted parent or another person applies to vary or discharge the order before the completion of the family court review. Previously the draft amendment had provided that the court would serve all applications made for the review, variation or discharge of the order. The associated Practice Direction amendments were revised to set out the safeguarding functions to be undertaken by the relevant local authority.

7.8 Respondents also raised questions about how local authorities would be notified that a PSO had been made and how information would be shared between the criminal and family jurisdictions to enable local authorities to comply with the statutory requirement to apply for a review within 14 calendar days. These matters have been considered as part of implementation planning. In response, supporting operational processes, court forms, standard notification process, including pre-conviction and subsequent notifications from the Crown Court to the relevant local authority, have been developed to support early identification of cases and timely information sharing.

8. Applicable Guidance

8.1 Amendments to the FPR are brought to the attention of members of the judiciary and other relevant representative bodies (for example the Law Society, Bar Council and advice sector) and to the editors of relevant legal publications by the FPR Committee secretariat, as well as through publicity within His Majesty's Courts and Tribunals Service. News of changes affecting the family jurisdiction is published on the Ministry of Justice website.

8.2 New application forms and supporting operational material will be made available in advance of the commencement of Jade's Law on 18 December 2026 and published on GOV.UK.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on businesses, charities or voluntary bodies is foreseen.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector will be on the relevant local authorities which will be responsible for making applications to the family court for the review of PSO made under section 10A of the CA 1989 and for serving the application documents in those proceedings. In line with its responsibilities, the Ministry of Justice has conducted a New Burdens Assessment and is fully funding the additional costs arising from this new duty. Alongside this, local authorities will be exempt from paying the family court application fee for these proceedings. Based on current estimates, the measure is expected to result in around 17 cases across England and Wales each year. The additional costs to local authorities are estimated to be up to £122,026 per year. Funding for these costs has been identified for 2026/27 and future funding requirements will be informed by actual case volumes and costs following implementation.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the amendments will form part of the FPR, which are kept under continuous review by the FPR Committee and may be subject to amendment.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 No matters of special interest arise.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").