EXPLANATORY MEMORANDUM TO

THE FAMILY PROCEDURE (AMENDMENT) RULES 2026

2026 No. 699 (L. 12)

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Baroness Levitt KC, 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, email: FPRCSecretariat@justice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Family Procedure (Amendment) 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.

Where does the legislation extend to, and apply?

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

4.3 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 The 2026 Rules amend the FPR to introduce several targeted changes aimed at improving clarity, transparency and procedural efficiency in family court and High Court proceedings.

5.3 New rule 25.5A FPR, inserted by the 2026 Rules, concerns the instruction of experts in certain proceedings relating to children. These amendments are being made to

ensure that, where possible, an expert instructed to give an opinion on the welfare of children is suitably qualified to do so and has the required oversight from a professional body. Under paragraph (1) of rule 25.5A FPR, any expert instructed in these proceedings will be required to come within the new definition of a "regulated expert", as inserted in rule 25.2 FPR by these Rules. Regulated expert means an expert who is regulated by a UK statutory body, appears on a register accredited by the Professional Standards Authority or is regulated by an approved regulator under the Legal Services Act 2007.

5.4 Paragraph (2) of rule 25.5A FPR clarifies that this requirement does not apply to international social workers, those giving evidence in Schedule 1 proceedings or "technical experts". This is because international social workers are not regulated in the UK and must follow the requirements of their home country. Experts in Schedule 1 proceedings are excluded because these proceedings are concerned solely with financial provision for children and not all suitable financial experts are, or need to be, regulated by a UK statutory body. Technical experts, as defined in rule 25.2 FPR, are excluded as they may not be regulated individually; instead their methods or technology may be subject to regulation. Paragraphs (3) and (4) of rule 25.5A FPR set out the circumstances in which there is judicial discretion to permit an expert to give evidence who does not come within the new definition.

5.5 Paragraph (2) of rule 25.5A FPR clarifies that this requirement does not apply to international social workers, those giving evidence in Schedule 1 proceedings or "technical experts". This is because international social workers are not regulated in the UK and must follow the requirements of their home country. Experts in Schedule 1 proceedings are excluded because these proceedings are concerned solely with financial provision for children and not all suitable financial experts are, or need to be, regulated by a UK statutory body. Technical experts, as defined in rule 25.2 FPR, are excluded as they may not be regulated individually; instead their methods or technology may be subject to regulation. Paragraphs (3) and (4) of rule 25.5A FPR set out the circumstances in which there is judicial discretion to permit an expert to give evidence who does not come within the new definition.

5.6 New rule 9.47 FPR is introduced to enable provision to be made in practice directions in relation to the court giving permission to communicate information from financial remedy proceedings.

5.7 The intention is that new practice directions will be made to set out when the court should consider making orders stating the information which may be disclosed from financial remedy proceedings to, or by, journalists or legal bloggers and setting out the procedure that should be followed by the courts. This is being done to increase public transparency in relation to financial remedy proceedings in the family courts.

What was the previous policy, how is this different?

5.8 Part 25 FPR governs the use of expert witnesses in the family courts, together with practice directions. Practice Direction 25B ("PD25B") includes an annex of the standards for expert witnesses and requires that, where an expert's profession is subject to statutory regulation, they must possess a current licence to practice. There was no similar provision for experts whose title was not subject to statutory regulation. Thus, an expert could choose to act under such a title in order to circumvent the requirement for oversight. This will no longer be possible as any expert in children proceedings will now need to be regulated, barring certain exceptions set out in the FPR.

5.9 Before the new rule 9.47 FPR, the FPR did not make express provision for practice directions to set out the details of when the court may give permission to communicate information from financial remedy proceedings. The position following this amendment will be different as it will enable new practice directions to be made setting out those details.

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 When a person wishes expert evidence to be introduced in children proceedings, permission of the court is required. The addition of new rule 25.5A FPR creates a requirement that, subject to exceptions, the court can only give permission when such an expert complies with the new definition of a "regulated expert" inserted in rule 25.2 FPR. New rule 25.5A FPR creates a judicial discretion to permit the instruction of an expert who is not a regulated expert in very limited circumstances, namely where there is no expert available for the specific issue in the case who meets the requirements or where instructing one would cause significant delay to the proceedings. When relying on an exception, the court is required to give written reasons for the instruction of the expert, including how that expert complies with the standards in PD25B. These amendments to the FPR strengthen the safeguards for children and ensure that experts giving evidence related to their welfare are appropriately qualified to do so.

6.3 These requirements do not apply to international social workers, those providing evidence in Schedule 1 proceedings or "technical experts" as defined in rule 25.2 FPR as they are expressly excluded in rule 25.5A(2) FPR, meaning that such persons are subject to pre-existing requirements only.

6.4 These requirements do not apply to international social workers, those providing evidence in Schedule 1 proceedings or "technical experts" as defined in rule 25.2 FPR as they are expressly excluded in rule 25.5A(2) FPR, meaning that such persons are subject to pre-existing requirements only.

6.5 Case law establishes that information disclosed in financial remedy proceedings is confidential to those proceedings, so that it cannot be disclosed by (for example) a party to those proceedings to any person or body without potentially amounting to a contempt of court. It is for the court to decide what information may be disclosed to, and by, a journalist or legal blogger, taking into account, amongst other factors, the need to balance rights under the European Convention on Human Rights to freedom of expression and information (Article 10) and to a private and family life (Article 8).

6.6 New rule 9.47 FPR will not change the position established in case law. Rather, it will enable practice directions to make provision about the court giving permission to communicate information from financial remedy proceedings. The intention is that the associated practice directions will make the position clearer, so that all parties to cases, and any journalists or legal bloggers who attend hearings, will know what they can, and cannot, communicate to others about financial remedy proceedings.

Why was this approach taken to change the law?

6.7 Parliamentarians, parties involved in previous family court proceedings and sector groups raised concerns that unregulated experts, often using the title "psychologist",

were being instructed in proceedings relating to children in the family courts to give evidence about so-called "parental alienation". In seeking to address this concern, consideration was given to other solutions such as stricter regulation of the title "psychologist". However, that would require changes to primary legislation, which should only be pursued as a last resort and where there is a direct risk to patient safety, meaning it would not be appropriate in this instance. Furthermore, taking that approach to restricting the instruction of unregulated "psychologists" would not prevent these experts from changing their titles in order to circumvent any new requirements.

6.8 Adding rule 25.5A FPR and amending rule 25.2 FPR provides consistency in the standard of expert witnesses instructed in relation to children's welfare in the family courts. The new provisions in the FPR will require, subject to limited exceptions, all expert witnesses to be subject to a minimum standard of oversight regardless of their title. Amending the FPR was considered the most proportionate way of achieving consistency whilst also preserving judicial independence.

6.9 Concerns have arisen that restrictions on communicating information from family proceedings, and uncertainty about what can be communicated, limits public understanding of these proceedings and of the decisions being made by the family courts. It has been said that public trust in the family justice system is undermined by the lack of transparency. The Government is supportive of greater transparency in the family courts, provided that sensitive information is appropriately protected.

6.10 In January 2024, following a similar pilot in children proceedings, a Transparency Reporting Pilot was launched in Birmingham, Leeds and the Central Family Court in order to facilitate the issuing of Transparency Orders to provide clarity to reporters as to what they may, or may not, report about specified types of financial remedy proceedings.

6.11 The pilot was due to conclude on 29 January 2026, but has now been extended until 29 January 2027, and it is extended to specified types of financial remedy proceedings taking place in all family court locations in England and Wales. The pilot has broadly been successful, but a consultation was undertaken with key stakeholders on a number of procedural issues that have emerged. It has been agreed by the FPR Committee that, once this consultation has been completed and analysed, the pilot should be rolled out across England and Wales permanently in relation to specified types of financial remedy proceedings.

6.12 The amendment which inserts new rule 9.47 FPR will enable a new practice direction to be put in place to underpin the use of Transparency Orders and to set out the procedures to be followed by the courts when deciding the information which may be communicated about specified types of financial remedy proceedings.

6.13 The approach taken is consistent with that for Transparency Orders in proceedings relating to children. Transparency Orders in proceedings relating to children are governed by rule 12.73A FPR and rule 14.14A FPR, together with PD12R and PD12G, and the intention is broadly to mirror this approach for financial remedy proceedings. A new practice direction will be published at a later date which will provide more detail about financial remedy Transparency Orders, informed by the outcome of the consultation.

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 public consultation, in relation to the instruction of experts in proceedings relating to children, between 14 March 2025 and 6 June 2025. The consultation asked broad questions about and requested feedback on the proposed rule changes as a whole.

7.3 There were 63 responses. These were collated, analysed and presented to the Domestic Abuse Working Group ('the Group'), a subgroup of the FPR Committee which has been consulted on the proposals throughout the process.

7.4 The analysis showed that there were mixed views about whether the proposed rule change was restrictive enough; some respondents felt it was too restrictive and others felt it ought to go further. The Group was content that the draft rule changes achieved the correct balance.

7.5 Some respondents felt that the rule change should specify that "parental alienation" experts were not permitted in the family courts whilst others felt that the rule change should define "parental alienation". It was agreed by the Group that the rule change should be broader than this. It was also felt that that suggesting to include any definition of either "parental alienation" or of the associated experts could risk indicating that "parental alienation" syndrome is a condition capable of diagnosis. A number of respondents to the consultation raised concern that forensic science-based experts should be excluded from the proposed draft, as often their processes are regulated rather than the individual expert. Following this feedback, the proposed rule was further amended to exclude "technical experts", including those working in forensic science, as defined in rule 25.2 FPR, due to their different regulatory processes.

7.6 The FPR Committee did not consider it necessary to consult in relation to the principle of inserting new rule 9.47 FPR. It was satisfied from the progress of the financial remedy Transparency Reporting Pilot and from the previous exercise which resulted in the FPR being amended to include similar new rules about disclosure from proceedings relating to children, that such a rule would be appropriate in relation to disclosure from financial remedy proceedings. The FPR Committee did consult on a number of procedural issues that had emerged during the Pilot. The following stakeholders were consulted:

7.6.1 The Law Society;

7.6.2 Resolution;

7.6.3 The Transparency Project;

7.6.4 The Press Association;

7.6.5 The Family Law Bar Association; and

7.6.6 The Bureau of Investigative Journalism.

7.7 The consultation questions reflected issues identified by stakeholders. In relation to cases before a Transparency Order is made, the questions asked whether parties

should be able to disclose written or oral information to journalists and legal bloggers. The questions sought views on whether journalists and legal bloggers should be allowed to share that information with others and what limits and safeguards would be needed to avoid contempt of court, protect privacy and manage data risks.

7.8 For cases where a Transparency Order has already been made, the consultation questions addressed matters such as whether a broader category of documents should be made available to journalists and legal bloggers than are provided for in the template Transparency Order under the pilot scheme, what redactions should be applied to disclosable documents and who should bear responsibility for carrying out those redactions.

7.9 The consultation ran between Monday 16 March 2026 and Monday 27 April 2026. The responses to the consultation will be analysed and then considered by the FPR Committee in order to inform the content of the proposed new practice direction which will be made pursuant to new rule 9.47 FPR.

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.

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 the private or public sector 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 affect small or micro businesses. There is no, or no significant, impact on the public sector foreseen.

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 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution 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").