

# Making an application

## Children and the family courts

### Family Mediation

Before you begin proceedings you should consider Mediation. In mediation, an impartial, trained mediator, not connected with your case, helps you and your partner to resolve your disputes.

Mediation is not about getting back together. It is a chance for couples who are splitting to meet with someone who has been properly trained. This will help you to make arrangements for the future to work out plans for any number of things, including your children, your money, or your home.

You should attend a Mediation Information and Assessment Meeting before your application can be processed.

You can find your nearest family mediation service by visiting the government's website DirectGov ([www.direct.gov.uk](http://www.direct.gov.uk)) and search using the words 'family mediation'. You will find a database of accredited family mediation services on the website.

The Mediation Information and Assessment Meeting does not take long and will provide you with an assessment of the situation and whether mediation could solve your problems. Depending on your personal circumstances you may need to pay for the meeting. It's important to bear in mind that successful mediation can reduce costs for you in the long-term.

Public funding may be available from the Community Legal Advice (CLA) service. The CLA telephone number is 0845 345 4 345 and their website is [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk).

### Parenting Plans: Putting children first — A guide for separating parents

'Parenting Plans: Putting children first - A guide for separating parents' is a free booklet for separating parents designed to help parents reach agreement about contact and other arrangements for their children following parental separation or divorce. You can get a copy from your local family court or you can download a copy from [www.tsoshop.co.uk](http://www.tsoshop.co.uk). You can get a copy of a Welsh version from any CAFCASS CYMRU office or any Welsh court.

'Parenting Plans' explore a range of issues you may need to consider in making contact and other arrangements for your children, and includes practical examples of how other parents in a variety of family structures and circumstances have resolved problems. It also provides a list of organisations that can provide further advice and help.

The court makes most decisions about children using a law, called the Children Act 1989. If you want the court to make a decision about a child you need to apply to the court for an 'order'. An order will be made when the judge makes a decision.

## A – How the court can help you

Some of the orders you may wish to apply for are described below. These are just some of the decisions a court can make under the Children Act 1989.

Type of Order	Description
<b>Contact Order</b>	<p>These are orders that require the person with whom a child lives to allow that child to visit, stay or have contact with a person named in the order.</p> <p><b>For example</b>, if your child lives with your ex-partner and you wish to see your child at weekends then you might apply for a contact order, if you cannot agree this between yourselves.</p>
<b>Residence Order</b>	<p>These orders decide where and with whom the child is to live.</p> <p><b>For example</b>, if you and your partner have separated and you want your child to live with you, but cannot agree this, then you might apply for a residence order.</p>
<b>Specific Issue Order</b>	<p>These orders give instructions about a specific issue that has arisen about an action normally undertaken by a parent.</p> <p><b>For example</b>, if you and your ex-partner cannot agree where your child should go to school.</p>
<b>Prohibited Steps Order</b>	<p>These orders mean a person must have the court's permission before undertaking actions specified in the order, that would normally be undertaken by a parent.</p> <p><b>For example</b>, to require a parent to seek the court's permission before taking the child to a foreign country.</p>
<b>Parental Responsibility Order</b>	<p>Parental Responsibility means all the rights, duties, powers, responsibility and authority, which by law a parent of a child has in relation to the child and his property.</p> <p><b>For example</b>, if you are father of a child but you were not married to the child's mother, nor named on the birth certificate when the child's birth was registered, but you wish to be recognised legally as the child's father, then you may apply for a Parental Responsibility Order.</p>

<p><b>Financial Provision</b></p>	<p>Where parents can agree about child maintenance, they can choose to make a private arrangement between themselves or obtain a court consent order. Where this is not possible or a private agreement breaks down they can ask the Child Support Agency to assess and collect maintenance. For impartial information on the maintenance choices available to parents ring Child Maintenance Options on 0800 988 0988.</p> <p>Whilst, as a general rule, income for a child where parents cannot agree is calculated by the Child Support Agency, there are occasions where the court will make an order.</p> <p><b>For example</b>, if your child attends a boarding school and there are school fees to be paid then you might apply for an order for financial provision to be made by the parent of the child for payment of these fees.</p>
<p><b>Appointment of a Guardian</b></p>	<p>A guardian appointed under this section will generally take over parental responsibility for the child after the death of a parent.</p> <p><b>For example</b>, if your niece/nephew has lost both their parents you might apply to be a guardian.</p>

## Special Guardianship

The Special Guardian of a child can take most decisions about the child until the child is 18. Unlike adoption the child will retain their ties to their birth family. If you wish to know more you should read '**CB4: Special Guardianship - A guide for court users**'.

## Order related to enforcement of a contact order

If you were involved in proceedings where a contact order was made, and the contact order is not being complied with, then you might be able to apply to the court to have that order enforced. You should read leaflet '**CB5: Applications related to enforcement of contact**' to learn more about enforcement of contact and how to make an application.

## Adoption

If you wish to make an application to adopt a child you should read leaflet '**A20: Adoption - A guide to court users**'.

You can get a copy from your local court or you can download it from our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk).

## B – What a court might decide

A court will only make an order if it thinks that would be best for the child. Sometimes a court may decide that it would be best not to make any order.

A court might:

- make an order
- change an order (called 'varying' the order)
- end an order (called 'discharging' the order).

If the court makes an order it will be based on what is best for your child. This might mean that you, or the other person will not get exactly what you have asked for.

Once a case has started a court may make other decisions. These include:

- giving instructions that people must follow (these are called 'directions')
- transferring a case to another court.

### The Law

You do not need to know the law to apply but if you want to read more about the law you need:

- Children Act 1989
- Family Procedure Rules 2010

Your local library may have copies of the Act and the Family Procedure Rules 2010, accompanying Practice Directions and the forms you will need to complete are available on the internet [www.justice.gov.uk](http://www.justice.gov.uk) or from your local court

## C – Who may apply for an order - do I need to apply for permission?

Some people have the right to apply for an order, and some people must first get the permission of the court to make an application.

You have the right to apply without seeking permission from the court if you are listed in the next section 'The orders you can apply for'.

When you read the next section you may find that you need to consider whether you need to have 'Parental Responsibility' in order to make an application. Parental Responsibility is explained in Section E.

### Do I need to apply for permission?

If you do not have the right to make an application you may still be able to apply, but you must first have the court's permission. Section F will tell you which form to use to seek permission.

### The child

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If you are **the child** and the order you wish to apply for is about you (for example, your contact with a parent), you must get the permission of the court before you apply for the following orders:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)
- Specific Issue Order (including to vary or discharge an existing order)
- Prohibited Steps Order (including to vary or discharge an existing order)
- Discharge of the appointment of a guardian
- Discharge of a parental responsibility order or agreement

### Children and Young People

If you are a young person whose family is changing you may find the Children and Family Court Advisory Support Service (Cafcass/CAFCASS CYMRU) leaflets helpful. They are available on the Cafcass website if you live in England or the CAFCASS CYMRU website if you live in Wales. Follow the links below:

England: [www.cafcass.gov.uk](http://www.cafcass.gov.uk)

Wales: [www.cymru.gov.uk/gcclbtcymru](http://www.cymru.gov.uk/gcclbtcymru)

### About the 'parties' in a case

The parties to a case are those involved in the court proceedings and may include:

- everyone who has the right to apply for an order (see Section D)
- people with parental responsibility (see Section E)
- anyone who the court has made a 'party' to the case.

If someone else has applied for an order you may not be a 'party' to that case, but you may apply 'to be joined as a party' to it. Section F will tell you which form to use.

## D – The orders you can apply for

If you wish to apply for an order related to enforcement of an existing contact order you should read leaflet '**CB5: Applications related to enforcement of contact**'.

If you wish to apply for an adoption order you should read leaflet '**A20: Adoption - A guide to court users**'.

If you wish to apply for a Special Guardianship order you should read leaflet '**CB4: Special Guardianship - A guide for court users**'.

For all other applications, read the paragraph below that applies to you, to find out what orders you can apply for. The first sentence will tell you who the section applies to, for example, if you are the child's mother you need to read paragraph 1.

An application to have an existing order changed is called an application to vary the order.

An application to have an existing order brought to an end is called an application to discharge the order.

### 1. Mother

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If you are the child's **mother** you may apply for the following orders:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)
- Specific Issue Order (including to vary or discharge an existing order)
- Prohibited Steps Order (including to vary or discharge an existing order)
- Financial Provision (including to vary or discharge an existing order)
- Discharge of a parental responsibility order

### 2. Father or Parent (by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008)

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If you are the child's **father or Parent** by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008 you may apply for the following orders:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)
- Specific Issue Order (including to vary or discharge an existing order)
- Prohibited Steps Order (including to vary or discharge an existing order)
- Financial Provision (including to vary or discharge an existing order)

In addition, if you are the child's father or parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008 **and you have parental responsibility** you may apply for:

- Discharge of the Appointment of a guardian
- Discharge of a parental responsibility order or agreement

If you are the child's father or parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008 **and you do not have parental responsibility** you may apply for:

- Appointment of yourself as a guardian if the child has no parent with parental responsibility
- Parental Responsibility Order

### 3. Step-parent

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A step-parent is not the child's parent but is married to, or a civil partner of, a parent of the child who has parental responsibility for that child and you have treated the child as a child of the family.

If you are the child's **step-parent** you may apply for the following orders:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)

In addition, if you are the child's **step-parent** and **you have parental responsibility** you may also apply for:

- Specific Issue Order (including to vary or discharge an existing order)
- Prohibited Steps Order (including to vary or discharge an existing order)
- Discharge of a parental responsibility order, if it is your parental responsibility you wish to discharge
- Discharge of a parental responsibility order of an unmarried father
- Discharge of the appointment of a guardian

If you are the child's **step-parent** and **do not have parental responsibility** you may also apply for:

- Appointment of yourself as a guardian, if the child has no parent with parental responsibility
- Parental Responsibility Order

### 4. Grandparent

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If you are the child's **grandparent** you may apply for the following order:

- Appointment of a guardian

### 5. Guardian

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If you have been appointed as the child's **guardian** you may apply for the following orders:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)
- Specific Issue Order (including to vary or discharge an existing order)
- Prohibited Steps Order (including to vary or discharge an existing order)
- Financial Provision (including to vary or discharge an existing order)

## 6. People with a residence order

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If you have a residence order that is in force you may apply for the following orders:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)
- Specific Issue Order (including to vary or discharge an existing order)
- Prohibited Steps Order (including to vary or discharge an existing order)
- Financial Provision (including to vary or discharge an existing order)
- Discharge of the appointment of a guardian
- Discharge of a parental responsibility order

**Remember:** If you do not have the right to make an application you may still be able to apply, but you must first have the courts permission. Section F will tell you which form to use.

## 7. Other people

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If you are **not a parent or guardian** as above you may still be able to apply for an order as follows:

If you have an interest in the child's welfare:

- Appointment of a guardian

If the child has been living with you for at least 3 years during the last 5 years, and within the last 3 months:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)

If the local authority caring for the child has agreed that you may apply for an order:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)

If you are married or in a Civil Partnership, or have been married or in a Civil Partnership and the child is or was regarded as a child of the family:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)

If you have the consent of everyone who has parental responsibility for the child and there is no residence order in force and the child is not in the care of the local authority:

- Contact Order (including to vary or discharge an existing order)
- Residence Order (including to vary or discharge an existing order)

If you have the consent of everyone who has a residence order for the child:

- Contact Order (including to vary or discharge an existing order)
  - Residence Order (including to vary or discharge an existing order)
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# E – About Parental Responsibility

## What is ‘parental responsibility’?

If you have ‘parental responsibility’ you have all the duties, rights and authority, which, by law, a mother or father has for their child. This is described in full in the Children Act 1989.

A child’s mother always has parental responsibility for the child, however, sometimes a child’s father or other parent does not have parental responsibility.

You have parental responsibility, if you have since 1 September 2009, been registered as the child’s parent under section 10A(1B) of the Births and Deaths Registration Act 1953.

The list below will help you decide if you have parental responsibility. The list also shows that sometimes a person who is not a parent may have parental responsibility.

You have parental responsibility if:

- you are the child’s mother
- you are the child’s father and you were married to the child’s mother when the child was born
- you are the child’s parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008 as you were the mother’s civil partner when the child was born
- you are the child’s father and you were not married to the child’s mother when the child was born but:
  - you now have a Parental Responsibility Order

**or** you have made a Parental Responsibility Agreement with the child’s mother

**or** you have since married or entered into a civil partnership with the child’s mother

**or** you are the child’s parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and you have subsequently entered into a civil partnership with the child’s mother

**or** you have, since 1st December 2003, been registered as the child’s father under paragraphs (a), (b) or (c) of sections 10(1) or 10A of the Births and Deaths Registration Act 1953 or the corresponding law in Scotland or Northern Ireland.

**or** you are the child’s parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and you have since 1st September 2009, been registered as the child’s parent under paragraph’s (a), (b) or (c) of section 10A (1B) of the Birth and Deaths Registration Act 1953.

- you are the child’s step-parent (married to or a civil partner of a parent with parental responsibility) and you have made a Parental Responsibility Agreement with the child’s mother (and father if he also has parental responsibility) or you have a Parental Responsibility order
- you hold a residence order for the child
- you hold an emergency protection order for the child
- you are a guardian of the child
- you have adopted the child
- you are the child’s Special Guardian

If you and/or the child have links with Scotland or Northern Ireland you should contact the authorities there for more information on parental rights.

If none of the above applies but you and/or the child have links to a country outside the UK you may have parental responsibility rights in that country. You should contact the authorities for the relevant country to find out if this affects you.

## **What is a Parental Responsibility Agreement?**

A Parental Responsibility Agreement is a legal document in which a child's mother and father agree that the father has parental responsibility for the child or in which a child's mother and father (if he already has parental responsibility) agree that the child's step-parent has parental responsibility for the child. (A step-parent is someone who is not a parent but is married to or civil partner of one of the parents with parental responsibility).

A Parental Responsibility Agreement must be made on form C (PRA1) for a father, form C (PRA2) for a step-parent or C(PRA3) for a second female parent under 42A of the Children Act 1989. Each of these forms come with notes that will tell you more about how to make a Parental Responsibility Agreement. You can get these forms from your local family court or they can be downloaded from [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk).

## F – The forms and leaflets you need

The below table shows which forms you must use to make your application. All forms and leaflets can be found at your local family court, or can be downloaded from our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk).

If you are applying for an order related to enforcement of an existing contact order you should refer to leaflet CB5.

If you are applying for a Special Guardianship Order you should refer to leaflet CB4.

<b>Application type</b>	<b>Forms needed</b>
Residence Order	C100
Contact Order	C100
Prohibited Steps Order	C100
Specific Issue Order	C100
Appointment of a guardian	C1
Discharge of appointment of a guardian	C1
Parental responsibility order (s.4)	C1
Step-parental responsibility order (s.4A)	C1
Discharge of a parental/step-parental responsibility order	C1
For an order in existing proceedings	C2
To be joined as a party in existing proceedings (for example if you have received a C6A Notice of Proceedings)	C2

If you would like to apply for an order that is not listed above you may wish to get advice from a solicitor or a Citizens Advice Bureau.

All forms can be obtained from the court office or can be found on our website at [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk).

## G – About respondents and other people to be notified

Later you will have to tell people that you have made an application, these people are the respondents and the other people to be notified. These might include the child's parents, or someone who is looking after the child. The next sections, H and I, will help you identify who are the respondents and other people to be notified about your application.

- You will have to provide respondents with a copy of your application form and they will be provided with an opportunity to submit their own form in response to your application.
- You have to tell the other people to be notified that you have applied for a court order, but you do not have to provide them with a copy of your application form.

If you are applying for more than one order you may have different respondents, or other people to be notified, for each order.

If a respondent is under 18 years of age and does not have a solicitor you need the court's permission to tell them about your application.

Sometimes there will be no one for you to tell about your application.

### **When do I tell people about my application?**

At this stage you need to provide the details of the respondents and other people to be notified on your application form.

The court will tell you later when and how to tell the respondents and other people about your application.

Telling people about your application and providing a copy of your application form to the respondents is called 'service'. There is more information about this in Section Q.

## H – Who are the respondents?

The list below will tell you who the respondents are to your application.

In any application, **if the child is the subject of a care order** then the respondents will include every person you believe to have had Parental Responsibility immediately before the care order was made. You may want to refer back to Section E 'About Parental Responsibility'.

If you apply for a:

- **Contact Order**
- **Residence Order**
- **Specific Issue Order**
- **Prohibited Steps Order**
- **Parental Responsibility Order**
- **For the appointment of a guardian**

the respondents are:

- Everyone you believe has parental responsibility for the child.

If you apply to **vary or discharge** a:

- Contact Order
- Residence Order
- Specific Issue Order
- Prohibited Steps Order

the respondents are:

- Everyone you believe has parental responsibility for the child.
- The parties in the application for the order to be varied or discharged.

If you apply for **Financial Provision** the respondents are:

- Everyone you believe has parental responsibility for the child
- Everyone you believe may be affected by your application.

If you apply to **vary or discharge an order for Financial Provision** the respondents are:

- Everyone you believe has parental responsibility for the child
- The parties in the application for financial provision

If you apply for the **discharge of a guardian** the respondents are:

- Everyone you believe has parental responsibility for the child
- If a guardian was appointed by a court order, the parties in the application for the appointment of the guardian

If you apply to **vary or for the discharge of a Parental Responsibility Order** the respondents are:

- Everyone you believe has parental responsibility for the child
- The parties in the application for the Parental Responsibility Order

## I – Who are the other people to be notified?

If you apply for a:

- **Contact Order**
- **Residence Order**
- **Specific Issue Order**
- **Prohibited Steps Order**

or to **vary or discharge** any of these the other people to be notified are:

- If the child is in local authority accommodation (this might be a children's home or with foster carers who could be related), the social services department of the local authority
- Everyone who is caring for the child
- The person who provides the home in which the child is staying if the home is a registered children's home or a voluntary home, and it is a refuge
- Everyone who you believe is named in a court order which:  
concerns the child and is in force, unless you believe that order is not relevant to your application  
and you think applies to your application
- Every person you believe to be a party in court proceedings which are taking place now, unless you believe those proceedings are not relevant to your application.

If you apply for a **Parental Responsibility Order** the other people to be notified are:

- If the child is in local authority accommodation, the social services department of the local authority
- If the child is staying in a home that is a registered children's home or a voluntary home, and it is a refuge, the person who provides the home
- Everyone who is caring for the child.

If you apply for the **appointment of a guardian** the other people to be notified are:

- The social services department of the local authority if the child is in local authority accommodation
- If the child is staying in a home that is a registered children's home or a voluntary home, and it is a refuge, the person who provides the home
- Everyone who is caring for the child
- The child's father if he does not have parental responsibility for the child.

Parental responsibility is explained in Section E of this booklet.

If you apply for **Financial Provision** the other people to be notified are:

- If the child is in local authority accommodation, the social services department of the local authority
- If the child is staying in a home that is a registered children's home or a voluntary home, and it is a refuge, the person who provides the home
- Everyone who is caring for the child.

If you apply to **vary or discharge an order for Financial Provision** the other people to be notified are:

- If the child is in local authority accommodation, the social services department of the local authority
- If the child is staying in a home that is a registered children's home or a voluntary home, and it is a refuge, the person who provides the home
- Everyone who is caring for the child.

If you apply to **vary or for the discharge a guardian** the other people to be notified are:

- If the child is in local authority accommodation, the social services department of the local authority
- Everyone who is caring for the child
- The person who provides the home in which the child is staying if the home is a registered children's home or a voluntary home, and it is a refuge.

If you apply to **vary or for the discharge a Parental Responsibility Order** the other people to be notified are:

- If the child is in local authority accommodation, the social services department of the local authority
- Everyone who is caring for the child
- If the child is staying in a home that is a registered children's home or a voluntary home, and it is a refuge, the person who provides the home.

## J – Why do we need the information requested?

### **Completing Form C100**

It is very important that you complete form C100 carefully. You **must** provide full details about yourself and the respondent(s) on pages 1, 2 and 3 or your case **will be** delayed while the information is requested. This information is needed by Cafcass/CAFCASS CYMRU for safeguarding the welfare of the children. Both applicants (if there is more than one) are required to sign the application form.

### **Address (including keeping your address secret)**

We need your address to contact you. We will also provide your address to other parties so that they can provide you with a copy of their response to your application.

If you do not want someone to know your address, telephone number or email address or the child's, you do not have to put it on the application form. But you will still have to give your contact details the address to the court and there is a special form for you to do this. You should complete and submit Form C8 'Confidential contact details' with your application.

### **Who does the child live with?**

You should tell us about any other people who live with the child, for example, new partners of a parent, aunts, uncles, and grandparents. You should also tell the court if the child lives at more than one address. This will help give the court a complete picture of the child's living arrangements.

### **Social Services**

We also need to know if the child is the subject of a child protection plan or known to local authority children's services (you may know this as Social Services). The court may decide to seek further information or advice from the local authority.

### **Cafcass/CAFCASS CYMRU**

Cafcass - Children and Family Court Advisory and Support Service  
(in England)

CAFCASS CYMRU - Children and Family Court Advisory and Support Service Wales.

Cafcass/CAFCASS CYMRU look after the interests of children involved in family proceedings. They work with children and their families, and then advise the court on what they consider to be in the best interests of the child.

Cafcass/CAFCASS CYMRU are responsible for safeguarding and promoting the welfare of children who are the subject of family court cases. They do this by working with the children and families and by providing advice to the courts. They also carry out checks with other organisations, in particular local authorities and the police, as part of their work to make sure that children are safe and report their findings to the court.

## K – About evidence

There are two kinds of evidence you may use to support your case:

- oral evidence
- written (or documentary) evidence.

### About oral evidence

At the court hearing you may want to tell the court something; or you may want someone else to go to court as a witness and tell the court something to support your case. What you, or your witness, say is called '**oral evidence**'.

However, the court may not allow you, or your witness, to speak to the court unless you first give the court office a written statement of what you or your witness will say. The statement must end with the words:

'I believe the statement to be true and I understand it may be placed before the court'

The statement must be signed and dated.

Take the statement to the court office with the other forms and papers.

### Copies of court orders

Some parts of the forms ask you to provide copies of court orders. You can get a copy of an order from the court which made it. Ask the court office for a certified copy. You may have to pay a fee.

### Rules about written evidence

#### If you want a report made on the child:

- You must have the court's permission before you ask someone to assess or examine child so a report can be made.

If you apply for a contact order; residence order; specific issue order; and prohibited steps order:

- You must fill in the form and give only the information it asks for.

If you are also completing a **Supplemental Information Form (form C1A)**, again give only the information it asks for. There are Notes for Guidance on filling in the C1A. These can be obtained from the court office.

You must have the court's permission if you want:

- to refer the court to written information
- or
- give information which a form does not ask for.

If you apply for an order which is not a contact, residence, specific issue or prohibited steps order:

- You may refer to written evidence on your forms but you must provide the court office with copies of the evidence.

## L – About fees and costs

You may have to pay a court fee to apply for an order.

If you have to ask the court for permission to apply for an order you will have to pay a fee. This fee is not refundable. If the court gives you permission you will not have to pay another fee when applying for the order.

There may be other costs but that depends on your case and what you decide to do. For instance, you may have to pay expenses to a witness who goes to court to give evidence for you.

For more information about fees, please refer to booklet **EX50 – Civil and Family Court Fees (High Court and County Court)**. This booklet lists the most common family fees. You can get a copy from any court office or from our website [www.justice.gov.uk](http://www.justice.gov.uk).

### Methods of payment

Courts accept payment by debit or credit cards, cash, postal orders or cheques, which should be made payable to 'HM Courts & Tribunal's Service'. If you pay by cheque and it is dishonoured, the court will take steps to recover the money. Non-payment will result in your case being stayed or even struck out.

### What if I cannot afford to pay a court fee?

If you cannot afford to pay a court fee, you may be eligible for a fee remission in full or in part. The booklet **EX160A Court Fees: Do I have to pay them?** gives all the information you need. You can get a copy from any court office or from our website [www.justice.gov.uk](http://www.justice.gov.uk).

## M – The court you apply to

You should normally make your application to your nearest court that deals with family matters.

However, there are a number of occasions where your application must be started in a magistrates' court. These include:

- An application for parental responsibility by a father
- An application for parental responsibility by a step-parent
- An application for parental responsibility by a second female parent by virtue of section 43 of the HFEA 08.
- An application for contact with a child in care by a parent

There are exceptions to this:

- If you are making an application for both a parental responsibility order at the same time as an application for a contact, residence, prohibited steps or specific issue order, for the same child, both applications must be started in the same court.
- If you are making an application about a child where there is already related proceedings about that child in a county court or a high court you should apply to the same court.

A full list of courts and what type of work they do can be found on our website at [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk) or you can check your local telephone directory.

The court to which you apply will usually deal with your case. However, sometimes a court may decide a case should be dealt with by another court and the case will be transferred there.

## N – Attending court - special arrangements

### **If you need special assistance**

If you need special assistance or facilities for a disability or impairment please set out your requirements in full on your application form.

The court staff will need to know your specific requirements, for example; documents in alternative formats such as Braille or large print and/or access provision, a hearing loop or a sign language interpreter. The court staff will get in touch with you about this. If you do not make the court aware of all your needs, this may result in the hearing being adjourned.

If you require a foreign language interpreter you should also contact the court immediately so that one can be arranged.

### **Security**

If for any reason you are worried about security at court please let the court staff know as soon as possible. They will consider your needs and how they can help you.

## O – What to do next

### Check the form

Check that you have said everything you want to say. When you have given the forms to the court office you will need the court's permission if you want to change anything on the forms.

### Copy the forms

Make a copy of each form for yourself, a copy for Cafcass/CAFCASS CYMRU and for each respondent whose name you have provided in your application. Make the same number of copies of any other papers which you will give to the court with your forms.

These papers may include:

- a court order
- bank statements and accounts, if you filled in form C10A
- Supplemental Information Form (form C1A)
- written evidence which you want to use to support your application.

Your total papers submitted to the court must have:

- The original
- A copy for you
- A copy for each respondent
- A copy for Cafcass/CAFCASS CYMRU

Make sure any additional sheet you may have used includes the child(ren)'s name and the section number of the C1 or C100 you are answering.

Then you must take or send the forms and copies to the court with the correct fee. This is called 'lodging' or 'filing' your application.

**In an emergency** the court may allow you to make an application without telling the other parties. This type of application is called 'without notice' or may be referred to as 'ex-parte' at court. If the court then makes an order you will have to provide a copy of the order to anyone who will be affected by it. Tell the court office if you want the court to deal with your application 'without notice'.

## P – What the court will do next

### How the court will deal with your case

That depends on many things and the court is unlikely to deal with your case on one occasion (the 'hearing').

When the court office gets your forms it will check you have filled in the forms correctly and included any relevant papers. It will give you a date and time when the court will first consider (hear) your case. This is usually called a directions hearing, or a first hearing dispute resolution appointment.

The date of the directions hearing must give you enough time to let certain people know you have applied for an order and give them time to reply.

You will be provided with copies of the application forms and notices of hearings for each of the respondents. You will be required to provide a copy of these documents to each respondent. This is explained in the next Section Q - Telling the respondent and others people about your application

The law says there must not be any unnecessary delay in a case which concerns a child, and at the directions hearing the court will decide a timetable for your case.

You should make a note of the child's number or the case number, which the court office has put on the forms. You will need that number if you write to, or telephone, the court office.

Once you have taken steps to start a court case, the law places restrictions on the information about the case that you can then share with other people.

Leaflet **EX710 - 'Guidance on disclosing information about Family Proceedings involving children which are heard in private'** explains what these restrictions are. You can get a copy from the court or you can download it from our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk).

### If the child needs help urgently

If you think the child needs help at once, and the court agrees, it can give directions (instructions) or make a temporary order.

### If you do not want the case to continue

When you have given your forms to the court, you may apply for 'permission to withdraw your case' but only the court can decide what to do.

## Q – Telling the respondents and other people about your application (called ‘serving’)

After the court office has issued your application and sent you the documents listed in the previous section, you must then tell the ‘respondents’ and ‘other people to be notified’ about your application. This is called ‘service’. You must by law serve all these people unless the court has told you not to.

When the court sends you the copies of your application form, and any new forms, it will also send you a leaflet, ‘**CB3 – Serving the forms – Children Act 1989**’. This leaflet gives detailed instructions about what you must do.

## R – Getting help

You may ask a court official for information but court staff are not allowed to advise you about what to do in your case. For free legal information, help and advice contact Community Legal Advice (CLA) on 0845 345 4345 or [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk).

### Getting advice in your case

You can get advice from:

- a **solicitor** - there are solicitors who specialise in Children Act work and you can get the name and address of a solicitor from:
  - the Law Society’s ‘Children Panel’ (020 7242 1222); or
  - ‘Yellow Pages’, or the Solicitors’ Regional Directory. You may find these books at a public library.
- a **Citizens Advice Bureau** - [www.citizenadvice.org.uk](http://www.citizenadvice.org.uk)
- a **legal advice centre** or a **law centre**
- the **Law Society** website [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

You may have asked a solicitor for some advice, however, the solicitor is only ‘acting’ for you if you have appointed them to do so.

### You may apply on your own

If you decide to apply on your own you may want to get legal advice about the order you want the court to make. A court order may affect your life, or the child’s life, in ways you may not have thought about.

### Parties under the age of 18

If any of the parties (e.g. the parents of the child) involved in the case are under 18, an adult must handle the court proceedings on their behalf in addition to any legal representation. This adult is called a litigation friend. A litigation friend must have the ability to conduct proceedings on behalf of the party aged under 18 and must not have interests in the case that do not agree with the child’s interests. Any steps and decisions taken by the litigation friend in the proceedings must be made for the benefit of the child. A person can become a litigation friend as a result of the court making an order appointing them, or by completing a certificate of suitability in Form FP9 and filing it at the court.

## **Assistance from a layperson (sometimes called a McKenzie Friend)**

If you decide to apply on your own without legal representation, you may be able to have a lay person or friend help you, sometimes called a McKenzie Friend. That person might:

- Provide moral support
- Take notes
- Help with case papers
- Quietly give advice on:
  - points of law or procedure
  - issues that you wish to raise in court
  - questions you may wish to ask witnesses

A McKenzie Friend has no right to act on behalf of you, address the court, examine witnesses, nor sign the court documents.

You should inform the court at the outset of a hearing if you wish to have a lay person or McKenzie Friend present.

## **If you do not apply on your own**

You may be able to get assistance from the Legal Help Scheme. A solicitor, a law centre, or a legal advice centre will be able to tell you whether you are eligible for Legal Help. You must apply for Legal Help through a solicitor.

## **Children and Young People**

If you are a young person whose family is changing you may find the Children and Family Court Advisory Support Service (Cafcass/CAFCASS CYMRU) leaflets helpful. They are available on the Cafcass website if you live in England or the CAFCASS CYMRU website if you live in Wales. Follow the links below:

England: [www.cafcass.gov.uk](http://www.cafcass.gov.uk)

Wales: [www.cymru.gov.uk/gcclbtcymru](http://www.cymru.gov.uk/gcclbtcymru)

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