

Preparing a Position Statement

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What is a position statement?

A position statement is a useful document which you may choose to write (it is not obligatory unless ordered by the court) in preparation for a court hearing. As the name implies, it is a written statement setting out your 'position', which at a first directions hearing, should briefly setting out what it is you want the court to do, and why. At later hearings, position statements can also be useful to give both the court and the other party to proceedings pre-warning of any change in your 'position' (e.g. what you want to happen).

Position statements are useful for the court, in that they give the court a brief outline of your position in advance of the hearing. For yourself, they ensure there is a written record of your 'position' at that time, ensuring points don't get forgotten in the stress of proceedings. They may help bring a case to an early conclusion if the other party accepts your position. It can be used to give you a brief plan of what you want to achieve at the hearing. They can be used to provide a written record of your response to things such as welfare report findings by CAFCASS.

We say it again further on, but it is worth stating it here... **'A position statement should be brief!'** Ideally, no more than a couple of pages long.

If the court asks you to prepare a statement, this is likely to be longer and more detailed.

When should I write a position statement?

Technically, a judge should tell you when a statement is required, and the date by which it should be 'filed and served'. That said, people often write a position statement without such an instruction (and with no criticism for doing so without having been told to). Filing means delivering or posting a copy of the statement to the court, while serving means delivering or posting a copy of your position statement to the other party or their solicitor if they are legally represented.

You do not have to prepare a position statement (unless a judge tells you to), and only file one if your 'position' has changed, or if there is something important which you wish to comment on (such as the findings of a CAFCASS Report etc).

Some people have a worry that giving people advance knowledge of what you intend to say in court gives them an advantage. Our view is that making clear your position is more important, and so long as it is reasonable, practical and child focused, nothing is lost in giving the opportunity for people to think about it, rather than risk them missing those points, or your points being lost due to your not having the opportunity to express them in court, proceedings being rushed due to limited court time, or simply due to your feeling stressed when in the court room.

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Do you have any general tips about statement writing for court?

Yes! With a position statement, keep it brief.

Two to three pages is plenty. As with any statement, we recommend you keep it:

- 1] **Fair and Accurate:** What you write in your statement must be true, fair and accurate.
- 2] **Simple:** Your statement should be easy to understand.
- 3] **Timely:** File and serve your statement so the court and other party receive it ideally 48 hours before the court hearing (to give people time to read it). Allow for the time it will take to be delivered if you are sending it by post). Just in case it is not delivered on time, take three copies to court with you (one for yourself, one for the judge, one for the other party). Hand in your position statement to the court usher on arrival at the court building, asking that it be passed to the judge prior to the hearing starting. Hand a copy to the other party (or their solicitor if they are using one) when they arrive at court (and before you all go before the judge).
- 4] **Short:** Keep it short. Ideally, it should be no more than two to three pages.
- 5] **Appropriate:** Think of who you are writing for! Wording which is aggressive, confrontational, overly emotional and unnecessarily accusatory is not going to assist your children, your case or you.

Recognising your ex-partner's good points as a parent does not weaken your case for your continued involvement in the children's lives. It presents you as fair-minded. Think about the impression your statement makes. As an example, if the other party is making false allegations about you, it is less aggressive to say '*What they say is untrue*' rather than '*X is a liar*'. Write about facts, not what you perceive as motive.

- 6] **Child Focused:** As with any statement, keep the wording child focused. Your statement and reasons for being in court should relate to your relationship with your child, not your past relationship with your ex-partner.
- 7] **Reasoned:** Be clear in the arrangements you are asking the court to make, and give your reasoning behind the requests, but succinctly. Short paragraphs are more likely to be read.

Other tips include:

- 1] **Be sure to make YOUR points:** Remember it is your statement and why you are writing it. I have seen too many statements which focus mainly (or entirely) on criticising the other parent's position or defending against their allegations. It is important to consider the balance of the overall document to ensure that your own arguments, your requests to the court and your reasoning is prominent.

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2] **Be practical:** as with any statement, make sure that what you are asking for is practical? If you want the children to be with you for half the holidays, can you get this amount of time off work? What support will you have for childcare if you or your child is ill? Are travel arrangements practical for your child (as well as both parents). Is the handover location sensible? Would a neutral location be better? Would it be less stressful for all if you collect from and drop off to school? What time will you want to pick your children up, and drop them back? If the other parent's home is some distance from you, can both parents afford the travel costs?

3] **Re-draft if necessary:** Read and re-read your statement once it is finished. Aside from checking spelling and grammar, consider:

- a] whether the points you wish to make are clear. Try not to have paragraphs be too long;
- b] whether each paragraph/point you raise is necessary. If it is not, then delete it. Do not risk your main points being obscured with 'fluff', 'padding' or repetition;
- c] whether language / sentences / paragraphs can be simplified to make them easier to understand;

d] if what you have written could be misread or misinterpreted.

4] **Closure:** When it is finished and you are happy with it, put it away until the date when the statement should be filed and served. Read it again the day before you are next due in court and the morning of the hearing!

If you are not currently seeing your children, you should ask for an interim contact order. It may be many months before a final order is made by the court which decides residence and/or contact. If you are not seeing your children currently, you will want to ask the court to put in place temporary contact arrangements until such time as the final order is made. See also our webpage on case law, and especially the section on Interim and Supervised Contact Case Law

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If not already involved in proceedings, consider whether you want the court to have any investigations carried out and asking for this in your position statement, either to be conducted by CAFCASS Officers (or similar), or experts such as psychologists. You should only be asking for CAFCASS involvement if there are serious welfare concerns, since their involvement is likely to delay a final order by months. You are likely to need evidence to confirm the need for expert involvement, and again, any investigation and reporting back to

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the court will delay your proceedings considerably.

Do you have any tips about how a statement should be structured?

Yes.

- 1] **Paragraphs:** The statement should have **numbered** paragraphs. Again, keep the paragraphs short. If you need sub-paragraphs, include letters:

a] Like this
- 2] **Font and size:** Times New Roman 12 is ideal.
- 3] **Line spacing:** Set line spacing at 1.5 times which makes the statement easier to read.
- 4] **Margins:** Set the left hand margin to at least 2.5cm. Later, your statement is likely to be included in a 'court bundle' (a file containing all the case paperwork which either you or the solicitor acting for the other parent will need to provide for the court's use).
- 5] **Page Numbering:** Include page numbers in the bottom right hand corner of each page. It will be helpful if you carry on the page numbering on any pages of evidence you attach to your statement.
- 6] **Template:** Refer to our *template for a position statement* which also shows the

correct headings for the statement e.g. including the court name and location, the case number, the date, the children's names and dates of birth and the parties' names and whether they are the applicant (party applying to court) or the respondent (party replying to an application).

- 7] **Sign and date your statement:** While technically you do not have to sign a position statement, we see no reason not to do so.

How should I refer to the other parent in my statement?

If they are the applicant (the person applying to the court), you can refer to them as 'the Applicant'. If they are responding to your application to the court, you can refer to them as 'the Respondent'. Personally, I would refer to them by name, which is clearer and less 'clinical'. Mrs XXX will do.