



How to

Apply for a court order about the arrangements for your children without the help of a lawyer

advicenow

Making sense of the law and your rights



Who is this guide for?

This guide is for you if you are a parent and you disagree with your child's other parent or other family members about things like:

- where your child lives,
- who they live with and when,
- how often they see the parent they don't live with most of the time, and
- who else they should see.

You may have split up recently or years ago, shared a home or never lived together. Maybe you had an informal agreement between you about your children but it no longer works for some reason. It doesn't matter what is behind your disagreement; this guide is still for you. This guide will also be useful if it is not you but your ex or other family member who is applying for a court order.

It is also for people supporting others in this situation, for example Personal Support Unit volunteers, CAB volunteers, housing support workers, advice workers and court staff as well as relatives and friends.

What does this guide do?

It explains how to apply for a court order about the arrangements for your children. These orders are called child arrangements orders. A child arrangements order sets out who your child or children will live with in the future, who they will spend time or have contact with, and when these arrangements will take place.

It does not explain how to apply for an order for contact with your child if your child is in care – being looked after by the council.

The guide assumes that you will be applying for a court order yourself, without the help of a lawyer.

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Things to understand

- There is one court called the Family Court, which works in different places across England and Wales, and which deals with disagreements among separated families. These are not the same courts where people who are accused of doing something wrong go.
- As parents, you share responsibility for sorting out arrangements for your children. It is up to you to make every effort to agree how you will bring them up. If talking is difficult, help is available.

In almost every case, courts expect both parents to see their children. This is because it is almost always in a child's best interests to spend time with the parent they are not living with day to day. Sometimes (but not very often) courts make an order restricting or monitoring this time, for example, contact between a parent and child may be limited to letters, cards and presents. A court will only refuse to allow all contact in rare circumstances.

- If your ex does not pay maintenance or pays late, that does not give you the right to stop them seeing the children. If your ex stops you seeing the children, that does not give you the right to stop paying maintenance. These issues are not linked in this way, although people commonly think they are.
- A lot changes as children grow up. The arrangements you make now for your children may not be the right arrangements for them next year or in 5 years time. This is normal. Be ready to recognise this and adapt to meet the changing needs of your children.
- Whatever your situation, going to court is not the place to start. Before you apply for a court order about the arrangements for your children, you must find out about family mediation first, unless you can show that your case is exceptional (for example, where there has been violence or abuse between you).

(continued)

- Family mediation is available whether you split up recently or years ago, shared a home or never lived together. Family mediation is not the same as ‘marriage guidance’; it is not intended to help you work out the differences in your relationship or about getting back together. In fact it is the opposite; family mediation aims to help you to agree how you will live apart. In a situation where you cannot agree about the arrangements for your children, a family mediator can help you discuss possible solutions. But it is not the mediator who makes the decisions or agrees to a plan; it is you.
- If you do end up going to court, the court will be concerned to help you and your ex agree things between you where possible. Courts prefer not to make a decision for you and think your own agreement is better in the long term for your children.
- If you represent yourself in any court proceedings without the help of a solicitor or barrister, then the law calls you a ‘litigant in person’. It is possible that you and your ex are both litigants in person. You may also hear people talk about ‘self-representing’. This means the same.
- We talk about the court ‘doing’ things quite a lot in this guide. For example, the court may ‘send’ out a form, ‘make’ a decision or ‘think’ about something. It sounds a bit odd because most people think of a court as a place, a building. But ‘the court’ is often used as shorthand to refer to the people working in the court, whether they are a judge or court staff. And that’s how we use the term here and how you will probably hear other people use it too.
- We use the word ‘ex’ in this guide to mean your child’s other parent.

Legal aid

Legal aid

Legal aid is a government scheme to help people who live on a low income, have few savings and meet specific other criteria, pay for legal advice, representation and other help.

Legal aid is no longer available to pay for legal advice from a solicitor to help you apply for a court order about the arrangements for your children unless you can prove, for example, you have suffered domestic abuse or that your child is at risk of abuse from your ex.

Domestic violence and abuse is any controlling, coercive, or threatening behaviour, violence or abuse. The abuse may be psychological, physical, sexual, financial or emotional. If you are in this situation there are organisations that can help you. See **More help and advice** on **page 43**.

To apply for legal aid, you must be able to give your solicitor some evidence that you have suffered domestic violence or that your child is at risk of abuse from your ex. For further information, see: **www.gov.uk/legal-aid/domestic-abuse-or-violence**



Legal aid is still available to pay for family mediation. Eligibility for legal aid depends on your financial circumstances. You can check if you are financially eligible for legal aid here: **www.gov.uk/check-legal-aid**

What does the court take into account when it makes a decision?

The law explains what a court needs to take into account when it makes a decision about your child. The court will consider your child's welfare above all else. This is about trying to decide, sometimes in difficult circumstances, what is in your child's best interests.

The law makes it clear that the court must only make an order if doing that is better for your child than making no order at all. You may hear lawyers call this the 'no order principle'.

The court must also avoid any delay, where possible, as it is generally agreed that delaying a decision is not usually good for children and can sometimes cause them harm. If it is important that the court makes a decision before a particular event takes place, for example, your child starts nursery or goes back to or changes school or moves to live with another family member, then the court should take this into account when they organise the hearing in your case.

In addition, the law gives the court a checklist of other things to think about when deciding what is best for your children. You may hear this called the 'welfare checklist'. These are the factors on the checklist:

● Your child's wishes and feelings

This does not mean that the court will do whatever your child says they want. But if your child is old enough to understand the questions they are asked and the court (with the help of a Family Court Advisor) can find out what they think, then it will consider what they say. (For more information about Family Court Advisors see **The Children and Family Court Advisory and Support Service** on **page 28**.) The court will want to know that your child's wishes and feelings are their own and have not been influenced by either of their parents. The court will pay more attention to the wishes and feelings of a child the older they are. In a few cases, the court may want to meet your child, or get a letter from them giving their views.

● Your child's physical, emotional and educational needs

This includes your child's need for love and affection as well as for education, a home and food. It also includes things that can affect your child's emotional well being. So if, for example, your proposals involve separating one child from his/her brother or sister, the court will consider how this will impact on their emotional needs. If you and your ex argue or resort to violence with your children around, again the court will take this into account.

What does the court take into account when it makes a decision?

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- **The likely effect of any change in circumstances on your child**

Change can be disruptive for children so the court will want to think about the effect on your child of any change you are suggesting, for example, in where they live or who they live or spend time with. Does the benefit of any change outweigh any possible negative effects?

- **The age, sex, background and any relevant characteristics of your child**

This includes any cultural, religious or language needs as well as any disabilities.

- **Any harm your child has suffered or is at risk of suffering**

Harm can mean ill treatment or damage to your child's health or development, the impact caused by them seeing or hearing domestic violence or abuse or by preventing contact without a good reason. Can you protect your child from this kind of harm?

- **How capable you and the child's other parent are of meeting your child's needs**

Do you have the skills to look after your child and meet their needs? If, for example, you have drug or alcohol problems and these problems affect your ability to meet your child's needs then this is something the court will take into account.

- **The power of the court to make a different order from the one you have asked for**






The fact you have asked for a particular order does not restrict what a court can do. The court's view about what is best for your children may or may not be the same as yours. There is always a possibility that neither you nor your ex gets what you asked for. The court's duty to protect a child is so important that if, for example, it thinks your child is at risk of possible significant harm it could ask the local council to get involved.

Sorting out arrangements for your children by negotiation and agreement

You can sort out the arrangements for your children by agreement at any time – either before or after you start court proceedings or without there being any court proceedings at all. Whether you manage to do this will depend partly on you and your ex's attitude to solving your problems this way. Any agreement usually means being prepared to compromise – accepting less or giving more. But it may be worth doing this to avoid the uncertainty and expense of going to court.

If you are not willing to negotiate and reach an agreement about the arrangements for your children then you may have no choice but to go to court.

Reasons for agreeing the arrangements for your children:

-  You decide what happens rather than somebody who does not know your child.
-  It can be less stressful.
-  It can be quicker.
-  It can be cheaper.
-  It can create more certainty about the outcome.

There are many services available to help you resolve your differences and come to an agreement about the arrangements for your children. You can find a list of recommended services here: www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12b#para2.1

Parenting plans

A parenting plan is a written plan worked out following negotiation between you and your child's other parent or other family members. It sets out your decisions about the everyday, practical issues to do with caring for your children including how you are going to communicate about the children, living arrangements, money, education, religion and healthcare. A parenting plan can be a useful way of making sure everyone involved knows what is expected of them and creating some certainty for the future.

For more information about parenting plans, the questions to ask and how to create one, see www.cafcass.gov.uk/grown-ups/parenting-plan.aspx

If you would like to create your own parenting plan online, you can do this here: www.splittingup-putkidsfirst.org.uk/home#plan

For a Welsh language version see: <http://welsh.splittingup-putkidsfirst.org.uk/hafan#getStarted>

Sorting out arrangements for your children by negotiation and agreement

Before you can go to court

In this section we explain what you need to do before you start court proceedings.

Experience suggests that reaching an agreement yourselves is usually better than the court telling everyone what to do. You are more likely to be satisfied with the outcome and stick to the decisions you have made together. And children do better when their parents and relatives cooperate with each other.

Mediation Information and Assessment Meetings (MIAM)

Anyone thinking of going to court has to attend a Mediation Information and Assessment Meeting (MIAM) unless they are exempt. This applies whether you are applying for a court order yourself without the help of a lawyer (you are a 'litigant in person') or you are

represented by a lawyer and whether you have legal aid or not.

The purpose of this meeting is to:

- give you information about how you might be able to sort out your disagreement without going to court; and
- assess whether mediation is a safe way for you and your ex (or other family members) to try and sort out your disagreement.

You contact an authorised family mediator to set up a Mediation Information and Assessment Meeting. They will invite you to attend a MIAM either separately or together with your ex. You can find an authorised family mediator by searching here: www.familymediationcouncil.org.uk or here: <http://find-legal-advice.justice.gov.uk>



What happens at a Mediation Information and Assessment Meeting?

The meeting will probably last about 40–45 minutes. The mediator:

- Explains what family mediation and other forms of dispute resolution are and how they work.
- Explains the benefits of mediation, other forms of dispute resolution, and the likely costs.
- Answers any questions you have about your situation and how mediation might work for you.
- Assesses whether you are eligible for legal aid for mediation or will have to pay for it.
- Assesses whether mediation or other form of dispute resolution is suitable in your case.
- Completes the relevant part of the C100 form if you want to make a court application.

For more information about how these meetings work, see: **www.familymediationcouncil.org.uk/family-mediation/assessment-meeting-miam**

Mediation aims to help you communicate with one another now and in the future and to reduce the extent or intensity of any dispute and conflict within your family. Trained mediators can help you talk to each other and find solutions, even when it is hard. They are there to assist you both and can provide you with a safe and supportive environment where you can work out solutions together. But, nobody has to use mediation. Once you have been to the Mediation Information and Assessment Meeting, you or the family mediator may decide there are reasons why mediation will not work.

This may be because there has been domestic abuse in your relationship. It may be that one or more of you have a drug or alcohol problem or a mental illness. That problem or illness may create such a big risk that it isn't safe for mediation to take place.

Circumstances when you don't have to attend a MIAM

There are some circumstances when you don't have to attend a Mediation Information and Assessment Meeting. For example, if your application is urgent or where there has been domestic violence between you within the past 24 months involving the police or civil proceedings. (If you didn't report it, you still need to speak to a mediator but can explain that you don't want to use mediation because there has been violence between you).

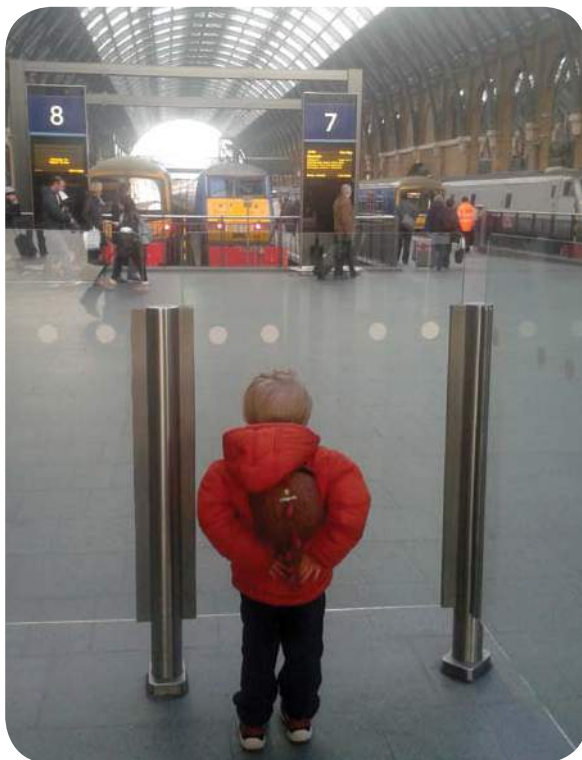
You can find the full list of circumstances in which you can ask the court to agree that you don't have to attend a Mediation Information and Assessment Meeting (the law calls this 'claiming an exemption') in para 3.8 of Part 3 of the Family Procedure Rules: **www.justice.gov.uk/courts/procedure-rules/family/parts/part_03#para3.8**

If you want to claim exemption from attending a Mediation Information and Assessment Meeting, there is a section of the C100 application form you must complete if or when you apply for a court order. You can find a link to this form in the Forms and rules box on **page 12**.

C100 – is the application form that starts the process of asking for an order about the arrangements for the children – for more information about this form, see **page 22**.

**Before
you can go
to court**

Before
you can go
to court



How much does it cost to go to a Mediation Information and Assessment Meeting?

Charges vary from one mediation service to another and often according to your gross annual income. When you phone a family mediator to arrange a Mediation Information and Assessment Meeting, ask about how much they charge and about legal aid. Some make no charge for the Mediation Information and Assessment Meeting itself but charge for completing the relevant section of the C100 form.

If either you or your ex are entitled to legal aid then the initial Mediation Information and Assessment Meeting, completing the relevant part of the C100 form and the first mediation session are free for both of you. After that, any further mediation sessions will only be free for the person who has legal aid. You may also be able to get legal aid for help from a solicitor during the mediation process. If you are the person who isn't eligible for legal aid, you will have to pay for any mediation sessions after the first one. You must take

documents proving what your income is and what savings you have to the first meeting. The mediation service will explain what evidence of your means they need to see in more detail, but if you are not clear what to take with you, don't hesitate to ring them and ask. Without this evidence you risk getting charged because the service won't be able to assess your eligibility for legal aid.

Forms and rules



You can find C100 here: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2253 There is a checklist and information notes at the back to help you complete the form.

You can find the Child Arrangements Programme here: www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12b

And court guidance about Mediation Information and Assessment Meetings (MIAMs) here: www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_03a

For more information about making an application, see court leaflet CB1: http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=93

For more information about the court process, see court leaflet CB7: http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=2756

The process in pictures

Have a look at our route map. It is designed to give you an overall picture of what is involved in a typical application for a child arrangements order. Even though your case may be different, we hope it makes the process seem a bit less daunting.

You will come across lots of new technical words. This is the jargon that lawyers and court staff use. We think there's no getting around it; you have to understand what it means too.

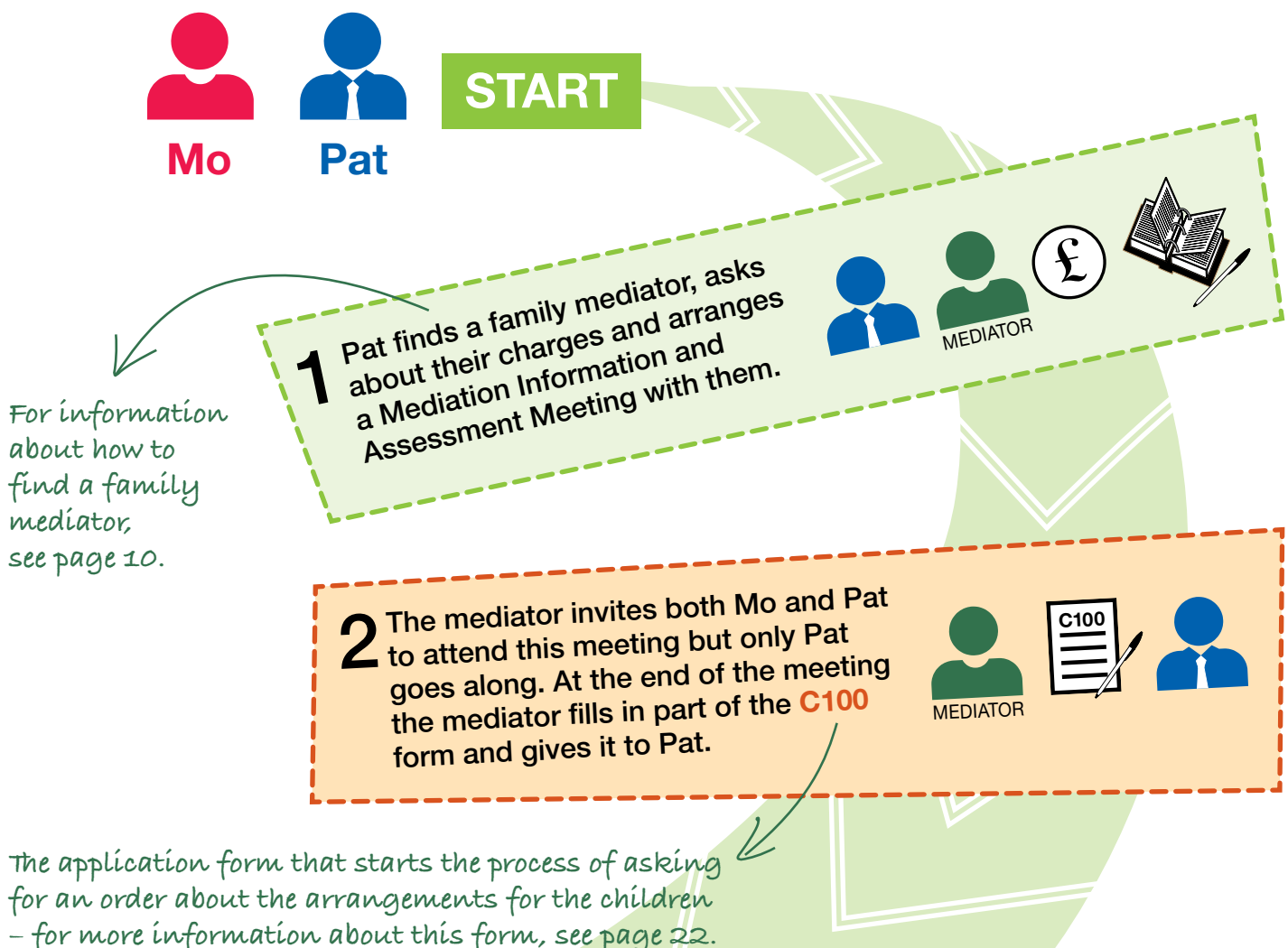
In the route map, we have put all the jargon in **orange**. We then explain these words the first time they appear. Follow the arrow to find out what they mean. You can also find them in **What does it mean?** on **page 45**.

The story so far...

Pat and Mo have 2 children; one is 7 years old and the other is 5. Pat and Mo no longer live together. Mo looks after the children on a day to day basis. Pat used to see the children regularly but Mo is now telling him that his visits unsettle the children and that he cannot see them for the time being. Pat suggests they visit a family mediator but Mo is not willing to do this.

This is a step by step description of how Pat applies for a child arrangements order.

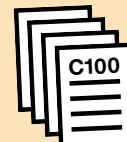
The process in pictures!



3 Pat fills in the rest of the **C100** form as fully as possible and signs and dates it. It is very important Pat provides all the information the form asks for about Mo including details of her previous addresses for the last 5 years. If he doesn't, this will hold up his case.



4 Pat goes to his local library and makes 3 photocopies of the completed **C100** form.



5 Pat checks whether the family court charges a fee for this kind of application and whether he is eligible to get help paying the fee.

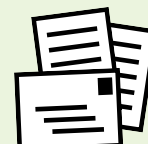


6 Pat sends the original **C100** form and 3 copies to the family court. He includes a cheque for the correct court fee. (If Pat does not have a bank account he can send a postal order instead or take the forms to the court and pay the fee in cash.)



Officially start court proceedings

7 The court **issues** the proceedings and sends Pat a copy of his application together with a **Notice of hearing**.

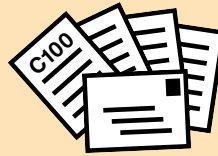


This tells you when and where your first meeting with a judge will take place.

The process
in pictures!

Delivery of court documents, usually by post.

- 8** The court **serves** a copy of the **C100** form together with a **Notice of hearing**, **Directions on issue** and **Acknowledgement form (Form C7)** on Mo.



Instructions given at the very beginning of a case telling you what to do and when.

The Acknowledgement form (Form C7) is the form the respondent must use to tell the court that they have seen the application about the children. For more information about Form C7 see page 27.

Cafcass officers (in Wales, Welsh Family Proceedings Officers), sometimes also called family court advisors, are specialist social workers whose job is to help parents agree the arrangements for their children (where this is possible) and write reports for the court about the needs of children.

The process in pictures!

- 9** The court sends a copy of Pat's application to **Cafcass or CAFCASS Cymru**. A **Cafcass officer** checks to see whether the council or the police have any knowledge or worries about the children and also speaks to both parents separately on the phone. The court also tells Pat and Mo if there is anything else they need to do before the first hearing.



Cafcass stands for Children and Family Court Advisory and Support Service. Cafcass operates in England and CAFCASS Cymru in Wales. For more information see page 28.

- 10** Pat and Mo go to the family court for the **First Hearing Dispute Resolution Appointment (FHDRA)**. They don't take the children with them as they are too young to attend court.



The first meeting where a judge and a Cafcass officer (in Wales, a Welsh Family Proceedings Officer) will talk to both of you about what it is you cannot agree about. They will also discuss whether mediation is suitable for you and could help you reach an agreement about the arrangements for your children.

These are instructions for how a case will be dealt with.

- 11** Pat and Mo cannot agree about allowing Pat to see the children and so the judge makes **directions** instead. The judge tells both Pat and Mo to write a **statement** setting out their views and gives them a deadline for doing this. The judge also asks the **Cafcass officer** to prepare a report and make a recommendation and fixes a date for the next hearing, a **Dispute Resolution Appointment**.

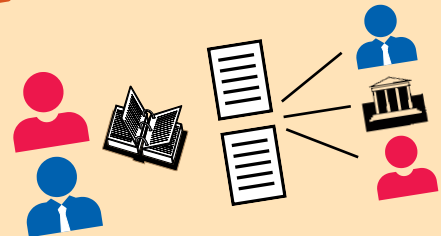


This is a written summary of the background to the disagreement, any recent events that have caused the court application and your view about what should happen in the future.

A court hearing which takes place towards the end of the court's involvement in your case. It gives you another opportunity to see if you can sort out your disagreement with the help of a judge.

The process in pictures!

- 12** Pat and Mo write their **statements** and **file** them at court in good time before the deadline. They each send a copy of their statement to the other.

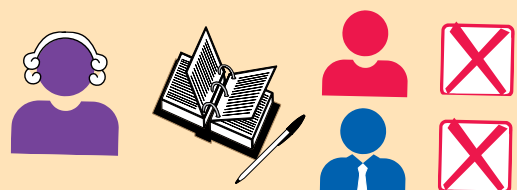


You file something, for example legal forms or documents, when you either take or post them to the court office.

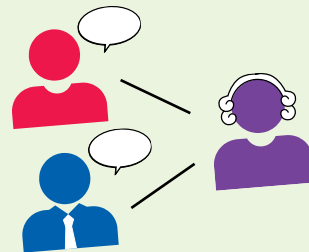
- 13** The **Cafcass officer** visits Pat and Mo separately, meets the children and writes a report recommending that Pat spends time with the children once during the week and has them to stay every other weekend.



- 14** At the **Dispute Resolution Appointment**, the judge explains to Mo that the Cafcass report recommends that the children spend time with Pat, and that this is likely to influence the judge's decision if the case goes to a final hearing. The judge encourages Mo and Pat to reach an agreement in line with the report's recommendation. Despite the Judge's encouragement, Mo and Pat still cannot agree.



15 At the final hearing, Mo and Pat take it in turns to tell the judge what they are finding difficult to agree and what result they are looking for.



16 The judge discusses the recommendation in the **Cafcass** report with Pat and Mo.



17 Mo and Pat each decide that they will go along with the **Cafcass** officer's recommendation.



18 The court makes an order.



19 The court gives Mo and Pat a copy of the order before they leave court.



FINISH

The process
in pictures!

Going to court – the basics

In this section we explain which court to use, where you can find the forms you will need and information about court fees and court rules (Family Procedure Rules). We also talk about how much it could cost and how long it will take.

Which court?

You can apply to any Family Court but you will probably want to apply to the one nearest to the children. You can find the contact details and opening times of all courts here: <https://courtribunalfinder.service.gov.uk/search>

How long will the case take?

It is hard to say, but the length of a case is likely to depend on the number and complexity of things you disagree about. But courts are very aware that any delay in decisions affecting children is not good. So, most cases take weeks or months rather than years.

Forms

Your family court will have the forms you need and should send them to you for free. Otherwise you can find the forms you need here: <http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do>. It is OK for you to print out forms to fill in from this link. Choose 'Children Act' from the menu under the heading 'Available types' and then click on 'Search →'. We will try and help by including a link to those forms that are most relevant in this guide. Where the form is also available in the Welsh language, we include a second link.



Most court forms seem a bit intimidating when you first look at them. A large part of most form filling involves giving factual information. Read though each form a couple of times to find out what information it asks for. Then get together the information you need before you start filling it in. Once you have done this, the job may turn out to be a bit easier than you first thought. It is unnecessary to use long words and legal language in what you write. The best thing is to keep it short and simple. Stick to what is relevant and try not to repeat yourself.

How much it will cost?

How much it costs you will depend on whether you deal with all the paperwork yourself or pay a lawyer to do some or all of it for you. Lawyers charge for their time. So, usually, every time you write, email or phone, they will charge you for the time they spend reading what you say, thinking about what advice to give you and giving you that advice. The more often you contact them, the more time they spend negotiating on your behalf or representing you at court hearings, the greater the cost – to you.

If you use a lawyer, the key thing is to use their time carefully. So prepare a list of the points you want to make and questions you want to ask before you

speak to them. Legal costs can add up to thousands of pounds. This is one reason why courts encourage people to mediate and reach an agreement either without going to court at all or before the final hearing.

More and more lawyers are offering packages of legal services for a fixed fee. Sometimes these services include a free first meeting. We suggest you ring round or email several to check what they offer for the price they are quoting. What will they do for you? What do they expect you to do?

You can also pay for a lawyer to give you a specific piece of advice or do a specific task. So, for example, you could decide to pay them just to prepare your application. If so, ring round and ask for a quote for doing this job. You might want to pay them to be available on the phone on the date of the first hearing to answer your queries or to represent you at the final hearing.

You can also consult a barrister directly without having to involve anyone else (for example, a solicitor). For information about the Public Access scheme, see: **www.barcouncil.org.uk/using-a-barrister/public-access**

You should only have to pay your own costs (and not your ex's as well) unless the court decides you have run your case unreasonably. That might include not doing what the court has ordered, failing to turn up for hearings, misleading the court or your ex or continue trying to make unreasonable arguments.



Family court fees

You usually have to pay a family court fee when you start (issue) proceedings about the arrangements for your children. For information about family court fees and when and how to pay them, see: **http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=264**

In some circumstances you may not have to pay a fee at all or only a reduced fee if you have a low income. For example, you will not pay anything if you can prove that you get Income Support, income-based Jobseeker's Allowance, Pension Credit guarantee credit, Universal Credit with gross annual earnings of less than £6,000, or income-related Employment and Support Allowance and your savings or other capital don't exceed certain limits.

You can ask for help paying court fees by completing form EX160. You can find this form and notes to help you complete the form correctly here: **http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=4397** and a Welsh/English version of the same form here: **http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=4398**.

Going to court – the basics

You have to complete a separate application for each court fee you want help paying. This may mean you have to complete this form more than once during your case.

You can work out if you are likely to be eligible by using the online Fee Remissions Contribution Calculator (EX 160C). To find this calculator type 'EX160C' into the search box at:
<http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do>

Family Procedure Rules

These rules explain what you need to do when. You may hear lawyers talk about the 'FPR'. What they are referring to are these rules. You need to follow the ones that apply to your case. You can find the rules here: **www.justice.gov.uk/courts/procedure-rules/family/rules_pd_menu**

A quick look will probably just confirm your worst fears – there are loads of them. And an individual rule often comes with one or more additional bits of guidance, called 'practice directions'. The good news is that only a few rules and practice directions are likely to apply to your case, unless it is very complicated. So it is not like a book, you don't have to start at the beginning and read all the way through to the end. You need to pick out the rules that are relevant to your case. We will try and help you do this by including any key rules in this guide.

Going to
court –
the basics

Applying for a child arrangements order

In this section we explain who can apply for this kind of court order, how you apply, what forms you must fill in and what happens next.

Before you apply

You must attend a Mediation Information and Assessment Meeting (MIAM) before you can apply for a court order about the arrangements for your children – unless you fall into the limited circumstances that mean you don't have to attend. At this meeting a mediator will explain the services available to help you and your ex reach an agreement. For more information about Mediation Information and Assessment Meetings, see **Before you can go to court** on page 10.

Who can apply?

Some people are entitled to apply for child arrangements orders; others need the court's permission first. If you are the child's mother or father you are entitled to apply. You can also apply if you are a step parent and you have treated the child as your child. A step parent is someone who is married to or the civil partner of a parent who has parental responsibility for the child. Other people, such as grandparents, will generally need the court's permission to apply for a court order unless the child has already lived with them for at least three years. For more information about who needs permission to apply, see section C of court leaflet CB1: http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=93

If you are the person who starts the proceedings, you are called the 'applicant'. If you are the other party, you are called the 'respondent'.



Applying for a child arrangements order

Where do I start?

The Child Arrangements Programme (you may hear lawyers and court staff call it the 'CAP') sets out the process for dealing with applications for child arrangements orders – what happens if you have a dispute with your ex or another family member about your child or children. It is designed to help you reach an agreement, where possible without going to court. You can find the Child Arrangements Programme here: www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12b

For an overview of what happens in practice, have a look at this short film about making your application to court: www.youtube.com/watch?v=lmjml21C-to&list=PL5g5tPp-sxrjOlwV_7gA0yELB1gw2TpW1

How do I apply for an order about the arrangements for my children?

If there is no court case already going on about your children then you apply for a court order by completing Form C100 (see the Forms and rules box on **page 24**). There is a checklist and information notes at the back of the form to help you complete it. It is important that you provide all the information the form asks for including details of your ex's name, date of birth and current and past addresses for the last 5 years.

If you don't want the respondent to know your contact details (your address, telephone number, email address) or the contact details of your child or children, leave the space on the form where it asks for your address blank and complete the confidential contact details form C8 instead (see the Forms and rules box on **page 24**). Form C8 is just for the court – so they know where you are and how to get hold of you. The information you give on it will be kept secret unless the court orders differently.

If there already is a court case going on about your children and you are not yet involved in those proceedings but want to be (perhaps, for example, you are the child's father and the proceedings are between the child's mother and step father), or you need the court's permission to start proceedings, then complete Form C2 (see the Forms and rules box on **page 24**).

You can fill in these forms either online (in which case if you don't complete a form all at one go, you can save what you have done and go back to it later) or by hand.



What do I do if my case is urgent?

Everyone tends to think their own case is urgent but as far as courts are concerned only a very few cases really are.

The court will only treat a case as urgent if there is a risk to the life, liberty or physical safety of you or your family, a risk to your home, or any delay would cause:

- a risk of harm to your child;
- a risk your child might be removed unlawfully from the UK;
- a significant risk of a miscarriage of justice;
- you to suffer unreasonable hardship; or
- problems in dealing with the dispute that could not be fixed later (for example, the loss of significant evidence).

Normally the court will not make any decisions without hearing from both you and your ex (or other family member) whenever possible. If your case is urgent, the court may, exceptionally, be prepared to make an order without first telling your ex about the hearing or giving them a chance to have their say. The law calls this 'without notice'.

But the court will only do this if:

- giving notice would allow your ex the time to take steps to defeat the purpose of the order, or
- it is so urgent that there has been literally no time to give notice even by telephone, text or e-mail, or
- giving notice would expose you or your child to an unnecessary risk of physical or emotional harm.

The court might accept that your case is urgent but still want to give your ex an opportunity to have their say. If so, the court might wait for short while so that your ex (or whoever the respondent is) can be given a chance to come to the hearing. There may not be time to give them the amount of warning usually required (you may hear this called ‘full notice’) and so the court may shorten the time period.

If the court does make an order without notice, it will arrange a further hearing to give your ex (or other family member) a chance to have their say. If you are not the applicant and you were not given notice of a hearing, you have the right to ask the court to reconsider the order it made. You must do this straight away by writing to the court. You must also tell the applicant that you have asked the court to reconsider the order.

You apply for an urgent hearing by ticking the box on Form C100 against the question: Is an urgent hearing or without notice hearing required? You must also complete the relevant sections of the form explaining the urgency and claiming exemption from attending a Mediation Information and Assessment Meeting.

Domestic abuse, violence or harm

If you or any of your children have suffered or are at risk of suffering domestic abuse, violence or harm then you should also complete the supplemental information form C1A (see the Forms and rules box on **page 24**). The form is called ‘Allegations of harm and domestic violence’. An allegation is a claim that someone has done something wrong. The form asks for details about the kind of abuse that you or the children have experienced and what happened. This is also the form to fill in if you think your child is at risk of being taken away from you by force or by tricking you (abduction).

The phrase ‘domestic abuse’ includes a wide range of behaviour including controlling, coercive or threatening behaviour as well as violence or abuse. Controlling behaviour, for example, is when someone:

- isolates you from the people or things you rely on for support,
- deprives you of your ability to be independent, resist control or escape from a relationship,
- makes rules about what you can and can’t do in your everyday life.

Coercive behaviour is assaults, threats, humiliation or intimidation used to harm, punish or frighten you. Abuse can be psychological, physical, sexual, emotional or financial.



Applying
for a child
arrange-
ments order

Special arrangements at court

If your case goes to court, will you need:

- An interpreter?
- Special help or facilities because you have a disability – for example, a loop or signer?
- Arrangements made to help keep you safe? For example, a separate waiting room, a video link or screens to shield you from the respondent when you give information and answer questions in person at court (the law calls this ‘giving evidence’).

If you do, make sure you tell the court in the relevant section of forms C100 or C2. The court should contact you to find out more about your specific needs.

Once you have identified the right forms for your case, filled them in and checked you have not missed anything out, sign and date them as necessary and make enough copies to take or send to the court. You will need one copy for the court, one copy for Cafcass or (if you live in Wales) CAFCASS Cymru and one for each respondent. You will also want a copy for yourself to keep. Then take or send the forms to the court office with the correct number of copies and the court fee if you have to pay one. You may hear lawyers and court staff use the words ‘lodging’ or ‘filing’. This refers to taking or sending forms or other documents to a court. So if someone asks you to ‘lodge’ a copy of form x or court order y or report z, they are asking you to take it or send it to the court office.

Forms and rules



You can find form C100 here: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2253 There is a checklist and information notes at the back to help you complete the form fully.

You can find form C2 here: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=78

You can find form C1A here: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=74

The Confidential contact details form (Form C8) is here: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2216

The court rules about domestic violence and harm in cases about making arrangements for children are here: www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j

For more information about making an application, see court leaflet CB1: http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=93

For more information about the court process, see court leaflet CB7: http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=2756

Applying for a child arrangements order

Checklist for starting (issuing) an application for a child arrangements order

- ☒ Identify the right forms for your case (C100 or C2? +C1A? +C8?)
- ☒ Read them through to find out what information they ask for.
- ☒ Collect any information you need, for example, a copy of a previous court order about your child or children, previous addresses in the last 5 years.
- ☒ Answer all the questions that apply to you.
- ☒ Fill in your contact details correctly.
- ☒ Sign and date the form (if necessary).
- ☒ Work out how many copies of the completed forms you need. If you are not sure, ask the court office.
- ☒ Attach any Parenting Plan you have completed in the past or any summary of the progress you are making with producing a Parenting Plan.
- ☒ Make the required number of copies of the completed forms.
- ☒ Copy any previous court orders about your children.
- ☒ Attach the correct court fee or completed form EX160 applying for help with fees (see **page 19**) to your application.
- ☒ Send or take your application and other documents together with the correct number of copies to the family court.

Applying
for a child
arrange-
ments order

What happens next?

Once the court has your application, it checks you have filled in the forms correctly, that you have attended a MIAM (or that you are entitled to claim an exemption from attending) and included all other relevant documents. If you have, it will officially start your case (issue your application) and give your application a case number. You will know whether you have started your case successfully when the court sends you a Notice of proceedings. This tells you when and where your first meeting (hearing) with a judge will take place. This date is usually about 4–6 weeks ahead.

The court sends a copy of your application to the Children and Family Court Advisory and Support Service (for information about **The Children and Family Court Advisory and Support Service** see page 28).



Applying
for a child
arrange-
ments order

Who do I have to tell about my application?

There are certain people who have to be given a copy of your application. Anyone in this position is called a 'Respondent'. To work out who needs to be told in your case, check out sections H and I in this leaflet: http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=93. If you are not sure who should be a respondent, phone the court office and ask.

If you want to see the court rules about who you have to tell, you can find those here: www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12c

Who sends my application to the people who need to see it?

The process of getting your application to the people who must see it or notifying those who must know about your application but don't usually get to see a copy of it is called 'service'.

The court will take care of sending your application to the people who need to know about it, unless you want to do this. Usually, this will be your ex (or other family member involved in the dispute) and Cafcass (or CAF/CASS Cymru).

I am the respondent.

What do I do now I have received these court papers?

So, you have been sent a copy of your ex's application for an order about the arrangements for your children. What do you do now?

Read through what you have been sent carefully. You should have at least 3 different forms:

- **A Notice of hearing** – this tells you the date, time and place for the first meeting (hearing) with a judge.
- **Form C100** – this explains why your ex is making the application.
- **Acknowledgement (Form C7)** – this is the form you use to tell the court that you have received your ex's application. The legal term for this is 'acknowledgement of service'.

There are instructions on Form C7 telling you what you need to do. It gives you space to reply to your ex's application, asks for details about you (and your solicitor, if you have one), whether you disagree with the application, whether you want to apply for a court order yourself and if you think your children have suffered or could be at risk of suffering violence or harm.

If your ex says that they or your children have suffered or are at risk of suffering domestic abuse, violence or harm you will also get the supplemental information form C1A. This form is called 'Allegations of harm and domestic violence'. There is a section at the back of this form for you to complete if you want to comment on the allegations.



You may want to get legal advice about what to say on one or both of these forms (see **More help and advice** on **page 43**).

Once you have filled in form C7 (and C1A if necessary) take or send it to the court office. You should find the address of the court office on the forms you have been sent. You must do this within 14 days of the date when you were given the Notice of hearing or of the postmark on the envelope if the Notice of hearing was posted to you.

I am the respondent. What do I do now I have received these court papers?

Forms and rules

You can find form C7 here: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=88

And form C1A here: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=74

The Children and Family Court Advisory and Support Service (Cafcass or CAFCASS Cymru)

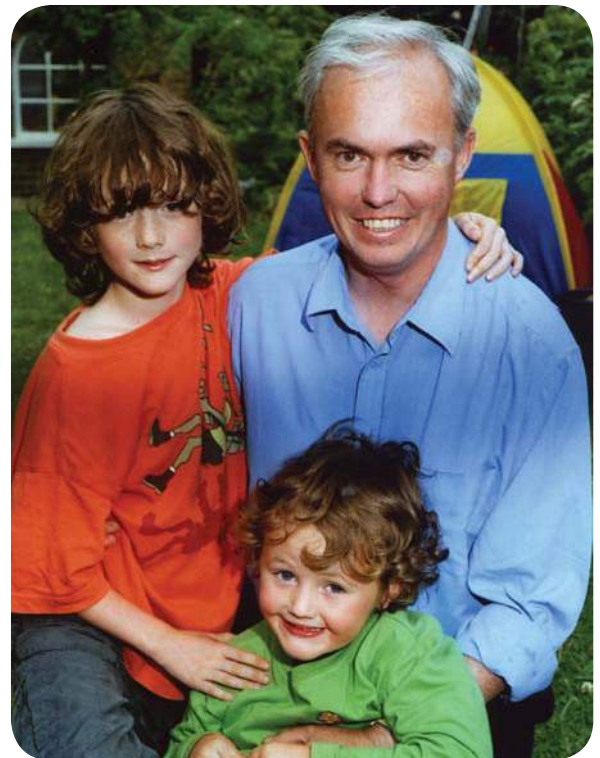
In this section we explain what the Children and Family Court Advisory and Support Service is and what they do.

There are two of these services; one in England and one in Wales. The service in England is called 'Cafcass' which is short for the Children and Family Court Advisory and Support Service (www.cafcass.gov.uk). In Wales the organisation is called CAFCASS Cymru (<http://cafcass.gov.wales/?lang=en>). Both organisations provide advice and support to help family courts and families make decisions in the best interests of children.

Cafcass have produced three videos to help families have a better understanding of who they are and what they do. You can see these here: www.cafcass.gov.uk/leaflets-resources/our-videos.aspx

A Cafcass officer (in Wales, a Welsh Family Proceedings Officer) – sometimes also called a Family Court Advisor – is a specialist social worker whose job is to help you agree the arrangements for your children if possible, carry out safeguarding enquiries and, if asked by the judge, write a report for the court about your children's needs.

Once they get a copy of your application, Cafcass or CAFCASS Cymru will carry out safeguarding enquiries (you may also hear these called 'screening checks') to make sure your child is safe and not at risk of harm. Screening is the process of asking for, receiving and closely inspecting



information about the adults and children involved in your application.

A Cafcass officer (in Wales, a Welsh Family Proceedings Officer) carries out enquiries by:

- looking at your application form to see if you have ticked any of the boxes to say that you are concerned about the risk of harm to your child or children. (Sometimes even if you haven't ticked any of these boxes, there may be something in your application that suggests there could be a risk. So, for example, if you mention that your children's father is about to be released from prison, they will probably look into this further.)

- looking at the C1A form (if you have filled one in) and deciding whether they think there is a genuine risk of harm.
- checking whether the police or council have been involved with you, your ex, or your family and whether either of them have any concerns about either parent. (These checks are standard practice now and happen in every application for a child arrangements order whether or not your family has ever had any contact with the police or social services.)

This information is then provided to the court, usually in time for the first hearing. Cafcass or CAFCASS Cymru will usually give this information to you too. If they don't then the court will tell you what's in the information unless it thinks that doing this might create risks for you or your ex (or other family member) or your child or children.

If the judge asks, a Cafcass officer will write a report for the court about your children's needs. The judge may ask the Cafcass officer to focus on one or more particular issues which you disagree about.



The Children
and Family
Court
Advisory
and Support
Service

The first hearing

(the First Hearing Dispute Resolution Appointment)

In this section we explain what happens at the first meeting (hearing) you have with a judge.

Before the first hearing

In some cases you may be told to do something before you go to court for the first hearing; if so you will receive an order from the court. For example, you may have to provide a summary explaining what progress you and your ex have made in producing a Parenting Plan or attend a Mediation Information and Assessment Meeting if you have not been to one, and the Judge decides that you have wrongly claimed to be exempt.



The first hearing

The first hearing

The first hearing usually takes place about 4–6 weeks after you start your case. You and the respondent must both attend. If you don't turn up, the court can refuse your application or go ahead without you. If the respondent does not turn up, the court can go ahead as long as it thinks the respondent knew about the hearing. If neither of you attend, the court may refuse your application.

The hearing usually lasts between 30 minutes and 1 hour. You will meet a judge and a Cafcass officer (in Wales, a Welsh Family Proceedings Officer). They will want to be clear what you agree about and where you disagree. They will try and help you find a solution to some or all of the issues you can't agree about. The Cafcass officer will try and talk to each of you before the hearing.

This short film explains what happens at the first hearing: www.youtube.com/watch?v=AAVXQU1E7GU&list=PL5g5tPp-sxrjOlwV_7gA0yELB1gw2TpW1&index=3

The court will decide whether:

- your child should be involved in the proceedings, and if so how;
- it needs a report from the Cafcass officer or from the local authority (if a local authority has been involved in your family's life);
- it needs expert evidence, for example, from a child psychologist;
- you and the respondent must prepare and file a statement (for more information about how to do this see **Statements** on **page 38**);

- a fact finding hearing should take place. This is a special hearing which the court may arrange so that a judge can decide whether there is any truth in the allegations of domestic violence or abuse made by either of you. This hearing will be arranged if the judge considers that the allegations (if true) would be likely to affect the final decision of the court and there is no other way of dealing with the case properly.
- to make an interim order, for example, that a child spends time with the parent they don't live with day to day in the weeks before the final hearing;
- to postpone (the law calls this 'adjourn') the case, for example, to allow a MIAM to take place or to give you time to complete a parenting plan or the opportunity to attend mediation;
- to ask HM Courts and Tribunals Service to produce a bundle, if both parties involved in the dispute are litigants in person;
- to arrange a Dispute Resolution Appointment or a final hearing; or
- to make a final order.

If the court cannot make a final order, it will make an order for directions. This is a list of instructions telling you and your ex (or other family member) what to do and when and is how the court manages the case to make sure it makes progress.

If possible, the court will give you a copy of the order it makes before you leave the courtroom. If there are things in it you do not understand, say so, politely. You should know if there is going to be another hearing in your case and the date, time and location of that hearing before you leave the court. If you don't, again, ask.

Involving children

The judge will think about how your child should be involved in any decision made. Depending on how old they are, their wishes and feelings must be considered. Often a Cafcass officer or social worker will do this by talking to your child. Sometimes a child might want to write a letter to the judge or meet them. The judge will ask for your views about this. If the judge does talk to your child they won't ask them what they want to see happen. Instead it's an opportunity for your child to see that the judge has understood their wishes and feelings. It is also allows your child to see the place where important decisions are being made about them and meet the person making them.

The judge will also want to think about how your child should be told about the decision once it is made. It may be that you or your ex can do that or perhaps a Cafcass officer or social worker if that would make things easier for your child.

Consent orders

If court proceedings start, it is very common for arrangements for the children to be sorted out by negotiation and agreement at the first hearing.

The details of what you have agreed will be recorded and approved by the court. If the court thinks you can stick to what you have agreed, it may decide not to make a court order at all, even an order that you both agree to (a consent order). However the court will make an order if it thinks that would be best for your child or children.

The first hearing

Forms and rules

Relevant rule: see Para 14.1 at: www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12b#para14.1

Who can come to the hearing?

The first hearing (and any later hearings in your case) will be held in private. However, that doesn't stop you bringing a friend or family member along to court with you for moral and practical support. If you want them to go into court with you, you will have to ask the judge. Sometimes that will be okay, especially if you can explain why it would help you for them to be in court with you. But be prepared for the judge to say no, in which case they will have to wait outside for you.

You can take someone into the hearing with you if you want them to act as your McKenzie friend (supporter) but they will not be able to speak on your behalf. They will almost certainly need to tell the Judge who they are, and a little about themselves. They should have no involvement in the case. Tell the judge as soon as possible if you want someone to take on this role. You can find the guidance explaining what McKenzie friends can and cannot do here: www.judiciary.gov.uk/publications/mckenzie-friends

The judge can ask your McKenzie friend to leave the court if they behave in a way that interferes with the court doing its job, for example, if they make loud comments.

Rules about whether the media are allowed to be at your court hearing

There are strict rules about whether and when the media are allowed into court in family cases. For information about whether and when the media can attend the hearing about the arrangements for your children, see: Can the media attend my court case? http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=2564

Here is the same leaflet in Welsh: http://hmctsformfinder.justice.gov.uk/HMCTS/W_GetLeaflet.do?court_leaflets_id=2566

Frightened of meeting your ex at court?

If you are worried about meeting your ex at court because they have been violent or abusive to you in the past, phone the court and tell them this. Ask them to make arrangements for you to wait for the hearing in a safe place. When you arrive at court, ask security to show you where to go. You can also ask them to help you leave the court separately from your ex, perhaps via a different exit, after the hearing.

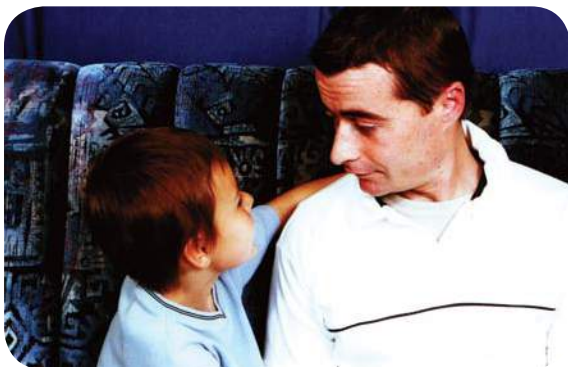
The Personal Support Unit has volunteers based in some courts who may be able to help, for example, by accompanying you to and from a hearing.



The first hearing

Dispute Resolution Appointment

If you are unable to reach agreement at the first hearing, it may be that the court will postpone (adjourn) the case to get a Cafcass report on the children or to investigate allegations of domestic abuse. When this further information is available, the judge may ask you to attend court for a Dispute Resolution Appointment. At this hearing the judge will explore with you whether you and your ex (or other family member) can agree arrangements for your children, even at this late stage. It is generally better if you can agree things between you rather than have a court impose an order on you.



If you are unable to reach agreement, the judge will order that the case is listed for a final hearing.

The judge can do a number of things at a Dispute Resolution Appointment, for example:

- identify the key issue(s) that need to be decided and how far they can be sorted out at this hearing;
- consider whether your case can be dealt with and finished at this hearing;
- listen to the evidence as a way of resolving or narrowing down the areas of disagreement (the law calls these 'issues') between you;
- identify what evidence there is on the areas of disagreement which remain to be sorted out at the final hearing;
- give final case management directions. These can include instructions about what further evidence you must file, whether you must file a statement, whether you need a file containing the relevant papers for the hearing and the date of the final hearing.

**Dispute
Resolution
Appointment**

Rules

Relevant rule: see Para 19.1 at:
www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12b#para19.1

The final hearing

In this section we explain what a final hearing is, what happens in it and how to get ready for it.

The final hearing is when a judge hears the evidence and makes a decision. But this only happens if you cannot reach an agreement yourselves. People often think that the judge will run the hearing; that the judge will ask their ex questions, give them a hard time or unpick the evidence to get at the truth. Judges will help where they can (particularly if they think that you are struggling) but if it is your application, generally you have to be prepared to take the lead.

Judges vary in how they start a final hearing. They should explain what is going to happen and put you at your ease. The judge may invite you to speak, or not. They may just expect you to stand up and start. If you are not sure what to do, just stand up and say something like, 'Would you like me to start now?' If you don't know the judge's name or how senior they are, it is best to call a man 'Sir' and a woman 'Madam'.

Sometimes hearings take place in rooms rather than in courts and you may not need to stand up when speaking. If you're not sure about where you should sit and whether to stand or stay sitting when speaking, just ask the judge.

You and your ex will each have a chance to tell your story (the law calls this 'giving evidence'). You will have to make a formal promise to the court to tell the truth (the law calls this 'take an oath' or 'affirm'). Whoever is the applicant goes first and the respondent second. If your ex is represented by a lawyer, then the lawyer will get them to tell their story by asking them questions. When your ex finishes telling their story, you and the judge can ask them questions. When you finish telling your story, the judge (or

your ex's lawyer if they have one) can ask you questions. The Judge will help with asking questions where necessary. When you ask questions, make sure they are questions and not speeches.

If Cafcass or CAFCASS Cymru has prepared a report, the author of the report usually attends court for the final hearing. This will give you, your ex and the judge an opportunity to ask them questions about what the report says and the recommendations.

The judge decides what order to make about the arrangements for your children and explains the reasons for their decision. Sometimes this will not happen on the same day as the full hearing because the judge needs more time to think about your case. In this situation you will be asked to come back to court another day. You won't have to wait too long, maybe another week or so.

If you don't turn up to the hearing, perhaps because you are feeling sick with nerves, it will usually still go ahead. To avoid this, try and get a friend to go with you. If you don't go, it is likely that you will lose your case. If you have a good reason for not being able to get to court, it is really important that you phone the court office and ask them to get a message to the judge explaining the reason. The judge will then know that you are not simply avoiding the hearing. If you are genuinely too ill to attend court, you will usually have to provide a letter from your doctor to confirm this.

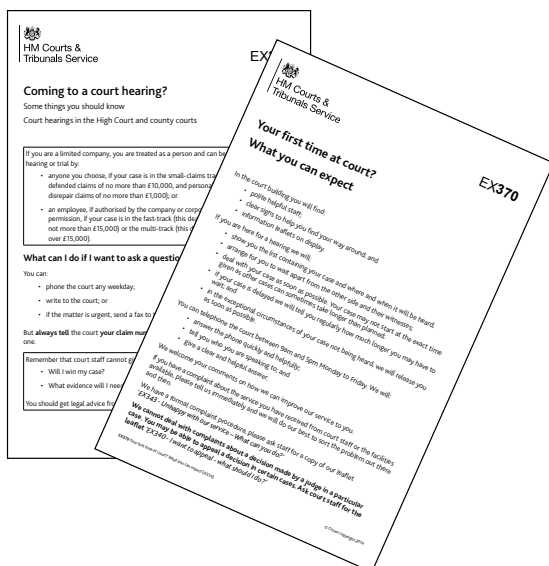


The final hearing

What do I have to do to get ready for the hearing?

Getting ready for the hearing: a checklist

- ☒ Make sure you have done everything the court has asked you to do.
- ☒ Have you sent all the documents you were told to send to the court?
- ☒ Make a note of what you want to say at the hearing so that you can refer to it. This will help you not to forget anything. You may think that what you want to say on the day will just occur to you at the time. But you cannot rely on this.
- ☒ Think about and plan the questions you want to ask your ex.
- ☒ Get your papers organised.
- ☒ Have a summary ready of what you want the court to order.



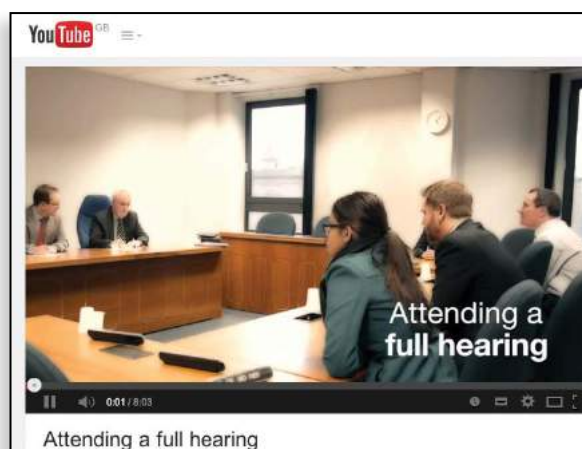
If you are representing yourself (speaking for yourself, without a lawyer to speak for you), then sections 3 and 4.4 of this guide are very useful:

www.barcouncil.org.uk/media/203109/srl_guide_final_for_online_use.pdf

Have a look at these films:

www.advicenow.org.uk/guides/representing-yourself-family-court-film

and www.youtube.com/watch?v=Zq2RP5MqX_4&list=PL5g5tPp-sxrjOlwV_7gA0yELB1gw2TpW1



You may also find these court leaflets useful:

Your first time at court? What you can expect

http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=4423

You can find a Welsh/English version here:

http://hmctsformfinder.justice.gov.uk/HMCTS/W_GetLeaflet.do?court_leaflets_id=2741

Coming to a court hearing? Some things you should know

http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=253

The final hearing

Top tips!

- You don't have to speak in legal language or long words – use plain English.
- Ask questions if you feel unsure about what is going on.
- The Judge is not 'for' or 'against' you; that is not their job. They will usually help or prompt you when necessary.
- Take notes of what the other party says. There may be a point you disagree with and having notes will help you to argue your case more convincingly.
- When someone asks you a question listen to it carefully and answer the question you are being asked. If you don't understand the question, say so and ask for it to be put in a different way.
- Take someone else with you to take notes for you when you are speaking. There will be times when you can't do both!
- In some courts a volunteer from the Personal Support Unit may be able to come with you.
- Take notes of the Judge's order at the end.
- Ask the Judge what the order means if you don't understand it.

Rules about who you can communicate with about your case

There are strict rules about who you can communicate with about your case.

Communication doesn't just mean talking to someone. It includes, for example:

- talking
- texting
- tweeting
- blogging
- messaging
- emailing
- posting information on a website or online forum
- posting information on Facebook – whatever your privacy settings
- via any other social media or online tool
- phoning
- publishing something in a newspaper, magazine or book
- writing and posting a letter.



For information about who you can communicate with about your case outside court, see: Can I talk about my case outside court? http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=947

You can find a Welsh language version of the same leaflet here: http://hmctsformfinder.justice.gov.uk/HMCTS/W_GetLeaflet.do?court_leaflets_id=1528

Rules about who you can communicate with about your case

Statements

In this section we explain what a statement is and when you have to prepare one, show you what one looks like and suggest some top tips to think about if you have to write one yourself.

A statement is a written summary explaining your view of the background to the disagreement between you and your ex, what has caused you to come to court, what you want the court to do and why you think this would be best for your children.

If the court asks both you and your ex to write a statement, it may accept your statement in a letter or it may want you to produce a more formal statement. If so, it may ask for something in the format shown on **page 40**, or it may give you something called a 'template' and ask you to fill it in. You can find a statement template at: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2407

You only need to prepare a statement if the court orders you to do this. If it does, it will also give you a deadline for doing this and tell you who you should send or deliver the statement to. Usually the court will expect you to send or deliver a copy of your statement to the court office.



Your statement should concentrate on the issue which you have asked the court to resolve. You should set out the relevant facts, based on your own knowledge; not what someone else has told you or your opinion about something. (A court will only take account of someone's opinion about something if it is given by an expert witness about something they are experts in that is relevant to the case, for example, a child psychologist's opinion about whether your child has suffered damage to their health or development. You must not ask an expert to prepare a report without the court's permission.)

You can ask a friend or family member to help you if you think that would make it easier. But court rules say that any discussions you have with them must be private (confidential). You need to explain this to them at the beginning.

Here are some top tips to help you prepare your statement:

Top tips!

- Plan carefully what you want to say.
- Try to keep it brief.
- Write the court name and your case number on the front page of your statement.
- Number each paragraph.
- Describe the background to your case.
- Set out events in date order.
- Explain what led to you asking the court for help.
- Explain what you want the court to do and why you think this would be best for your children.
- Be specific about what you want. So, for example, if you are asking for an order about when you and your child will spend time with each other, explain what you want to happen on weekdays and weekends during term time, birthdays and other special days (for example birthdays, religious festival days, Mother's Day, Father's Day). Do you want to suggest that you alternate school half term holidays? And that the children spend half of the school summer holidays with each of you? Where will you spend time together with your children? Do you want to say who is to deliver and who is to return the children? Who is going to pay any handover/travel costs?
- If you and the other parent agree about some things, tell the court this.
- Also explain what you still disagree about.
- Don't go on and on about what a poor parent your ex is; focus on the children's welfare.
- Focus on showing that there is no reason why the children should not spend a reasonable amount of time with you.
- If possible, type up your statement on A4 paper. It will be easier for everyone to read than if you write it by hand.
- Add a statement of truth: 'I believe that the facts stated in this witness statement are true.' and then sign and date it.
- When you send it to the court, send a copy to the other parent or their solicitor (if they have one).
- Keep a copy for yourself and take some spare copies to court for other people who may need to read it.

Statements

An example of a statement

The Family Court sitting at: *[insert name]* **Court No:** *[insert case number]*

Applicant: Pat Jones

Respondent: Mo Jones

STATEMENT OF PAT JONES

- 1** I am Pat Jones, *[insert occupation]* of *[insert address]*. I am the Applicant and this is my statement in support of my application for an order making arrangements for me to spend time with my children.
- 2** The Respondent, Mo, is the children's mother.
- 3** Mo and I lived together from about March 2007 to May 2014.
- 4** We have two children, Arun born 2 December 2008 (now 7 years old) and Jasmin, born 5th March 2011 (now 5 years old).
- 5** The children live with Mo and she looks after them on a day to day basis. From May 2014 until March 2016, the children came to stay with me every other weekend. We had no difficulties organising this and the children were very happy to come and stay with me. I think Mo quite enjoyed having some time on her own, to go out and see her friends. I always turned up on time. If by any chance I was going to be a bit late I would text her and she was fine with that.
- 6** I was going to have the children to stay for the first weekend in March but Mo contacted me during the week before to ask if we could put it off as her parents were coming to stay and would be very disappointed if the children were not there. I felt I had to agree for the children's sake although I did ask her to try and arrange for her parent's visits to coincide with weekends when the children were with her rather than when they were coming to stay with me in the future. She seemed OK with that. We agreed that the children would come and stay with me the following weekend.
- 7** On Friday March 7th 2016, just as I was about to leave to collect the children, my phone rang. It was Mo. She said she was going to have to cancel the children's visit as Arun was running a temperature and had been sick that afternoon. I said I would be happy to look after Jasmin but Mo said she did not think this was a good idea. She was in a hurry to get off the phone as Arun was calling for her.
- 8** The next day I phoned to check how Arun was doing. Mo said he was a bit better but that he was asleep and I couldn't talk to him. I phoned again on Sunday, but Mo said she was too busy to talk.

(continued)

- 9** The following week I tried to arrange the children's next visit. Mo said there was no point discussing it as the children were very unsettled and staying at my house was not helping. I was upset and tried to explain to Mo why it was important for both me and the children that we saw plenty of each other. She seemed to agree but then moments later was again saying I could not see them.
- 10** Mo continued to make excuses about why I could not see the children. One weekend I turned up as agreed and no one was in. It turned out she had taken the children to stay at her sister's.
- 11** She kept putting me off until I had not seen them at all for 6 weeks. I told her that unless we reached an agreement before the end of April and I was seeing the children again I would have no choice but to go to court.
- 12** I don't understand what is going on or what has changed. For over a year we made our own arrangements about when the children would stay with me. All of a sudden this seems impossible.
- 13** I would like to collect the children from school on alternate Fridays during term time and for them to stay with me for the weekend. I will then return them to Mo's home on Sunday's at 6pm. I would like the children to stay with me for half of half term and other school holidays. I would also like to be able to speak to the children on the telephone during the week.

STATEMENT OF TRUTH

I, Pat Jones, believe that the facts stated in this witness statement are true.

SIGNED:

DATED: 1st May 2016

Statements

Top tips!



- Get organised!
- Write your case number on any letters, documents or forms you send to the court. This way they will get linked up with your case. The case number is how the court is able to identify all the papers in your case. You will find your case number on any letters or documents that you have had from the court.
- Keep copies of any letters you send, emails sent and received and original letters received as well as court papers in date order in a folder.

Top tips!

More help and advice

There are many services available to help you resolve your differences and come to an agreement about the arrangements for your children. You can find a list of recommended services here: www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12b#para2.1

How to find a family mediator

Ask friends and family for a recommendation or your solicitor if you have one. Or use the family mediator finder service provided here: www.familymediationcouncil.org.uk. It is fine to phone around, ask how much they charge and compare prices.

How to find a legal advisor

Ask friends and family for a recommendation. You can also search here:

- find-legal-advice.justice.gov.uk
- <http://solicitors.lawsociety.org.uk>
- www.resolution.org.uk/findamember

The Royal Courts of Justice Advice Bureau may be able to help you if you:

- live in England or Wales,
- have a case in the Family Court, High Court or Court of Appeal, and
- are not already represented by a solicitor or barrister.

To book an appointment please check www.rcjadvise.org.uk for latest appointment details.

Help at court

Court staff may be able to explain court procedures and help you find a court form. They are not able to give you legal advice.

You can also search for court forms here: <http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do>

The Personal Support Unit (PSU) supports people going through the court process without a lawyer. Volunteers offer a free and confidential service. PSU aims to help you manage your own case yourself. PSU does not give legal advice or act on your behalf, but can offer practical help such as going to your hearing with you and help completing and filing your forms. For more information as well as the location and contact information for your nearest PSU, please visit www.thepsu.org

Child contact centres

Child contact centres are neutral places where children of separated families can spend time with the parent they don't live with day to day and sometimes other family members, in a comfortable and safe environment. For more information, see:

National Association of Contact Centres
www.naccc.org.uk

More help
and advice



Domestic violence and abuse

For support or to discuss your options you can call the National Domestic Violence Helpline www.nationaldomesticviolencehelpline.org.uk on **0808 2000 247** or in Wales, Live Fear Free www.gov.wales/livefearfree on **0808 80 10 800**.

Both help lines are for anyone who is experiencing, or has experienced domestic abuse, or for anyone who is worried about domestic abuse happening to a friend, family member or colleague. It is free, confidential and the number will not show up on a BT telephone bill.

If you are a man and you or your children are affected by domestic violence or abuse you can contact the Men's Advice Line www.mensadvice.org.uk: **0808 801 0327**

Always dial 999 in an emergency.

The National Centre for Domestic Violence www.ncdv.org.uk provides a free, emergency injunction service to survivors of domestic violence regardless of their financial circumstances, race, gender or sexual orientation. You can contact them on: **0800 970 2070**. Alternatively you can text: **NCDV** to **60777** and they will call you back.

The DYN project www.dynwales.org provides support to men who are experiencing Domestic abuse from a partner. You can contact them on **0808 801 0321**.

Refuge
<http://refuge.org.uk>

Women's Aid
www.womensaid.org.uk

Welsh Women's Aid
www.welshwomensaid.org.uk

Further reading

Parenting plans – Putting your children first: a guide for separating parents
www.cafcass.gov.uk/grown-ups/parenting-plan.aspx

A survival guide to using Family Mediation after a break up
www.advicenow.org.uk/guides/survival-guide-using-family-mediation-after-break

A survival guide to sorting out arrangements for your children
www.advicenow.org.uk/guides/survival-guide-sorting-out-arrangements-your-children

A Guide to Representing Yourself in Court
www.barcouncil.org.uk/media/203109/srl_guide_final_for_online_use.pdf

Further information about the law and your rights

Advicenow
www.advicenow.org.uk

Citizens Advice
www.citizensadvice.org.uk

Family Mediation Council
www.familymediationcouncil.org.uk

Sorting out separation
www.sortingoutseparation.org.uk

Resolution
www.resolution.org.uk

More help
and advice

What does it mean?

Acknowledgement (Form C7)

The form the respondent uses to tell the court that they have seen the application about the arrangements for the children.

Acknowledgement of service

The respondent 'acknowledges service' when they reply to the court (usually by filling in and returning a form) agreeing that they have received the application about the children.

Allegation

A claim that someone has done something wrong.

Applicant

The name given to someone who applies to a court for a court order.

Application

How you ask a court to do something.

Bundle

An information pack that pulls together all the information and evidence relevant to a case in one place. It makes it easier to refer to information during a hearing.

C100 form

The application form that starts the process of asking for an order about the arrangements for the children.

Cafcass

Cafcass stands for Children and Family Court Advisory and Support Service. Cafcass operates in England.

CAFCASS Cymru

CAFCASS stands for Children and Family Court Advisory and Support Service. CAFCASS Cymru operates in Wales.

Cafcass officers (sometimes also called family court advisors)

Specialist social workers whose job is to help parents agree the arrangements for their children (where this is possible) and write reports for the court about the needs of children.

(continued)

What does
it mean?

Child arrangements order

An order which sets out the arrangements about who a child is to live, spend time or have contact with and when.

Confidential contact details (Form C8)

The form you fill in if you don't want to reveal your contact details (your address, telephone number, email address) or the contact details of your child or children. Form C8 is just for the court – so they know where you are and how to get hold of you. The information you give on it will be kept secret unless the court orders differently.

Directions on issue

Instructions given at the very beginning of a case telling you what to do and when.

Dispute resolution

This refers to ways of sorting out disagreements without going to court. It includes methods such as mediation and arbitration.

Dispute Resolution Appointment (DRA)

This is a court hearing which takes place towards the end of the court's involvement in your case. It gives you another opportunity to see if you can sort out your disagreement with the help of a judge.

File

You file something at court, for example legal forms or documents, when you either take or post them to the court office.

First Hearing Dispute Resolution Appointment (FHDRA)

The court hearing which takes place at the beginning of the court's involvement in your case.

Hearing

The name given to a meeting with a judge or magistrates.

Issue

Officially start court proceedings.

Litigant in person

This is what the law calls you if you represent yourself in court proceedings without the help of a solicitor or barrister.

Notice

A notice is a bit like a letter. They are the way courts tell you what is going on and what you need to do next.

(continued)

Notice of hearing

This tells you that a court case has started and when and where your first meeting with a judge will take place.

Order for directions

This is a list of instructions telling you what to do and when.

Party

This kind of 'party' isn't about balloons and dancing. It's a person or group of people forming one side in a dispute.

Pre-action

Before court proceedings start.

Proceedings

Court action taken to settle a dispute.

Respondent

This is the name given to the person or people you have to give a copy of your application for a court order to. A respondent can then reply (respond) to your application.

Serve

Delivery of court documents, usually by post. In some circumstances, the courts also allow delivery by email.

Settle

Sort out the case with your ex or other family member by reaching an agreement.

Statement

This is a written summary of the background to the disagreement, any recent events that have caused the application and what should happen in the future.

Statement of issues

An issue is something you disagree about. A statement of issues is a brief summary of what you want the court to decide for you because you can't agree them with your ex.

Welsh Family Proceedings Officers

Specialist social workers whose job is to help parents agree the arrangements for their children (where this is possible) and write reports for the court about the needs of children.

What does
it mean?

The information in this guide applies to England and Wales only. The law may be different if you live in Scotland or Northern Ireland.

The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

advice**now**.org.uk

If you would like this guide in another format
please email guides@lawforlife.org.uk

This guide was originally written and produced by Law for Life's Advicenow project with assistance from the Family Justice Council. We would like to thank all those who provided feedback on this guide and those who helped update this most recent version.

Updated by Law for Life – November 2016

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We hope you found this guide helpful. Can you **make a small donation** to help us keep our guides up-to-date and available? To donate just text the message: **ADV22 £3** (or any amount between £1–10) to **70070**.

We are always trying to make our guides more helpful. If you have any comments on this guide, please go to www.advicenow.org.uk/guides/how-apply-court-order-about-arrangements-your-children-without-help-lawyer and take part in our survey.



Advicenow is an independent, not for profit website providing helpful information on rights and legal issues (www.advicenow.org.uk).

Advicenow is part of Law for Life. Law for Life is a charity dedicated to ensuring that people have the knowledge, confidence and skills needed to deal with law-related issues.

