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# DIY Child Arrangements Orders: information for family and friends carers

## Introduction

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Sometimes there is a crisis in the family home and it is necessary for children to be cared for by someone other than their parents. This can be for a short or long term period. In these circumstances, relatives and friends often come forward and take on the care of the child.

If you are in this situation, you may decide that you want to apply to court for a **Child Arrangements Order**. This is a court order which confirms that the child will live with you and gives you the right to make decisions about the child's care. You might also want to consider a **Special Guardianship Order** (For more information, see Family Rights Group advice sheet: [DIY Special Guardianship Orders: Information for family and Friends Carers](#) <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

Alternatively, if the social worker is involved in placing the child with you, then you may be entitled to be treated as a foster carer. This may be very helpful for you in terms of getting help (including financial help) to look after the child, so you may want

to get advice from Family Rights Group advice service or a solicitor specialising in child welfare law about the best course of action before you decide to go ahead and apply for a Child Arrangements Order – contact details in part 3 of this advice sheet. See also Family Rights Group advice sheet: [Family and Friends Care: becoming a foster carer](http://www.frg.org.uk/need-help-or-advice/advice-sheets) <http://www.frg.org.uk/need-help-or-advice/advice-sheets>.

This advice sheet aims to give an overview of Child Arrangements Orders for family and friend carers who are thinking of applying for an Order to secure the arrangements for a child to live with them:

- Part 1: gives basic information about the order (see page 4);
- Part 2: explains how to apply to court for a Child Arrangements Order (see page 14);
- Part 3: suggests where you can go for more information (page 42).

The advice sheet is long because there is a lot of relevant information. If you find it hard to follow it may be a good idea to ask a friend to go through it with you or talk to FRG advisers on our advice line – contact details are at the end of this advice sheet.

We have included the references for all the legal and practice requirements in endnotes which you can find at the end of the advice sheet. For full details of all the documents referred to in the endnotes, see the references section also at the end of the advice sheet.

**Note: “Social services” are now known as “Children’s Services”. This is how they are referred to throughout this advice sheet.**

## **Key terms used in this advice sheet**

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- **Child Arrangements Order:** This is an order from the court which can say:
  - who a child lives with and
  - with whom they spend time, and for how long.

It replaces residence orders and contact orders under s.8 Children Act 1989.

In this advice sheet, the Child Arrangements Order we are talking about is one that sets out who the child should live with, for example a grandparent carer.

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- **Child ‘in need’:** A child is "in need" if they are disabled, or they are assessed by Children’s Services to be in need of extra support for their safety, health and/or development. If your child is assessed as a child in need, Children’s Services may provide your family, or child, with extra help but it is not an absolute requirement.
- **‘Looked after’** means that the child is in *care* or *accommodation* with Children’s Services<sup>1</sup>
- **‘In care’** means that the child is either: under a court order (an interim or full care order or an emergency protection order), or is in police protection. (For more information, see FRG advice sheet on Care (and related) proceedings <http://www.frg.org.uk/need-help-or-advice/advice-sheets>)
- **‘Accommodation’** means that the child is being looked after by Children’s Services with the agreement of the parents/those with parental responsibility. (See Duties of Children’s Services towards Children in the Care System: <http://www.frg.org.uk/need-help-or-advice/advice-sheets>)
- **Parental responsibility (PR)** means the legal right to make decisions about how a child is raised. Those who have parental responsibility include: mothers; fathers who have been married to the mother at any time since the birth of the child or are jointly registered on the birth certificate as the father (after 1.12.03) or have acquired parental responsibility by formal agreement with the mother or by court order; anyone who has a Child Arrangements Order (which says who the child should live with), a Special Guardianship or an Adoption Order in their favour for the child; guardians; step-parents who have acquired parental responsibility by formal agreement or court order. For more information about parental responsibility, see FRG advice sheet Parental Responsibility: <http://www.frg.org.uk/need-help-or-advice/advice-sheets>.

## PART ONE: BASIC INFORMATION ABOUT CHILD ARRANGEMENTS ORDERS:

### What is a Child Arrangements Order?

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There are two types of child arrangements orders (CAOs):

1. An order which says **where and with whom a child will live**. You do not need to be biologically related to the child to apply for the order. It used to be called a 'Residence Order'; and
2. An order which says **who the child can spend time with and for how long**. This used to be called a s.8 'Contact Order'.

NB This advice sheet explains how to apply for a Child Arrangements Order saying **who the child should live with**, when that person is a relative or friend taking on the care of someone else's child. It does not cover Child Arrangements Orders saying who the child should see.

A Child Arrangements Order:

- **can say that the child can live with more than one person (and it will say for how long the child is with each person)**. For example where grandparents and a parent are raising the child either together at the same address or at separate addresses for different parts of the week. The order may include directions and conditions about the time the child will spend with one carer or another.<sup>2</sup>
- **gives 'parental responsibility' to the person(s) the order says the child will live with**, for as long as the order is in force. This includes being responsible for the care and well-being of the child and also being able to make important decisions about the child's life; including consenting to medical or dental treatment, and school trips.<sup>3</sup> Parents, and anyone else who already has 'parental responsibility', will keep it alongside you. (For more information about parental responsibility – see page 3)

**But note:**

- If you have a Child Arrangements Order (that says the child should live with you), you can normally make decisions about the child's care and upbringing without having to consult with their parents. However, it is still a good idea to discuss

important matters with the parents, as the child will benefit from everyone who has an interest in their upbringing agreeing wherever possible.

- It is also open to either of the parents (or anyone else who has parental responsibility) who is not happy about the decisions you are making about the child, to apply to court to challenge your decision on a particular question by applying for a Prohibited Steps or Specific Issue Order.
- If you have a Child Arrangements Order that says the child should live you, you can take a child outside the UK for up to **one month** without the agreement of other people with parental responsibility.<sup>4</sup>

However, there are also some restrictions on what you can decide about the child when you have a Child Arrangements Order (that says the child will live with you) for example:

- you may not change the child's surname without the written consent of everyone with parental responsibility or an order of the court.<sup>5</sup>
- you cannot take the child outside the UK for longer than **one month** without getting the agreement of everyone else with parental responsibility or the permission of the court.

Also, as you are not a parent, you **may not:** <sup>6</sup>

- appoint a guardian for the child to raise them after your death;
- consent to the child being placed for adoption or being adopted.

## **Who can apply for a Child Arrangements Order?**

You can apply for a Child Arrangements Order if you are over 18. You don't need to be related to the child. You can apply on your own or jointly with another person. In some cases you will need the court's permission before you can apply. See part 2 for further information on how to apply for the order (page 12).

## How will the court decide whether or not to make a Child Arrangements Order?

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When deciding whether or not to make a Child Arrangements Order, the court is required to follow the 'welfare principle' which means that the child's welfare is the most important consideration. It must take account of the following factors (often called 'the welfare checklist') when deciding what is best for a child:

### **a) The welfare checklist includes:<sup>7</sup>**

i) The child's wishes and feelings depending on their age and maturity.<sup>8</sup> Usually the court will consider what the adults in the case say about the child's views and also, if a CAFCASS officer has been asked to do a report, what they say in their report about the child's wishes and feelings. They will normally speak directly to the child about this if they are old enough. This may be particularly important if a child is finding it difficult to tell their parent or carer directly who they want to live with (For more information, see page 30).

ii) The child's physical, emotional and/or educational needs. The court will consider your (and the other party's) proposals for meeting the child's needs. So if, for example, the child will have to change schools in order to live with you, you will need to show that this is necessary to meet their needs.

iii) The likely effect on the child of any change in circumstances, for example, the disruption of the child moving home will be outweighed by the benefits of the care they will receive whilst living with you.

iv) The child's age, sex, and background and any other characteristic the court finds relevant, including the child's religion, ethnic background, language(s) spoken and any disability they may be suffering from. The court will consider how the child's needs about these things could be met by you in the future.

v) Any harm which the child has suffered or is at risk of suffering. The court will need to be reassured that you can protect the child from harm, including keeping the child safe during contact visits, for example with the parents.

vi) How capable each of the child's parents (or other relevant person) is of meeting his/her needs. This means the court will consider your proposals to care for the child and your ability to do that, alongside any proposals from their parents and others who have a significant relationship with the child to look after him/her.

vii) The power of the court to make other orders. In some circumstances the court can make a different order from the one you applied for if it thinks this would be in the best interests of the child - for example you might have applied for a Child Arrangements Order saying that the child should live with you, but the court may consider that a Special Guardianship Order is more appropriate. The court may also decide whether to make a Child Arrangements Order for the child to spend time with other people in the family, for example their parents or brothers and sisters. This is discussed further below.

#### **b) Presumption that the order will only be made if it benefits the child<sup>9</sup>**

The court can only make a Child Arrangements Order if it believes this is better for the child than not making such an order.

#### **c) Presumption of parental involvement<sup>10</sup>**

When considering whether to make a Child Arrangements Order, the court must presume, unless it is proved otherwise, that the involvement of the child's parents in their life will further their welfare. "Involvement" just means involvement of some kind, whether direct or indirect, but not any particular division of time. This is a new provision and has not yet been tested in the courts. It is not a presumption that a child is better off living with his or her birth parents. It is likely that it will have most effect when the court is considering the question of what contact a child should have with their parents, if the child is to live elsewhere.

#### **d) Avoiding delay<sup>11</sup>**

The court must also follow the general principle that excessive delay in the case is likely to negatively affect the child. However, where a planned delay may be beneficial, for example, because key evidence needs to be gathered, the court will weigh up the potential benefits of delaying the case against the possible harm such a delay might cause to the child.

**Note: If you are applying for a Child Arrangements Order in a case where there are ongoing care proceedings about the child's future, there are new rules which say that the case (including your Child Arrangements Order application) must be finished within 26 weeks.** For further information see FRG advice sheet Care and Related Proceedings <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

## **What is the financial impact of a Child Arrangements Order?**

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Parents remain financially responsible for their child whilst a Child Arrangements Order saying the child will live with you exists. You do not become financially responsible for them in law, although you may do so in reality.<sup>12</sup>

## **What support can I get to raise the child?**

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a) **From parents:** if the court makes a Child Arrangements Order saying the child will live with you, you may want to discuss with the parents what (if any) child support they could pay you. Alternatively the parents can be asked to pay you this support by the Child Maintenance Enforcement Agency, which has replaced the Child Support Agency: <http://www.csa.gov.uk>. But this is usually only worth considering if the parents are working.

The court which makes the Child Arrangements Order can also order a parent to pay maintenance for their child, for example if they are working or they have some savings.<sup>13</sup>

b) **Benefits and tax credits:** You can claim child benefit once the child has been living with you for 3 weeks and you may also be eligible for child tax credit and other

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benefits, depending on how much you and your partner earn or have saved. For information about benefits and tax credits and support from Children's service: see FRG advice sheet called Support for relatives and friends caring for someone else's child. <http://www.frg.org.uk/need-help-or-advice/advice-sheets>

**c) Parental leave:** With a Child Arrangements order saying the child should live with you, you may be also entitled to parental leave. This offers parents/other people with parental responsibility who qualify, the right to take unpaid time off work to look after their child or make arrangements for their welfare.<sup>14</sup> In most cases, this will only be available until the child's fifth birthday. For further information see FRG advice sheet called Support for relatives and friends caring for someone else's child.

<http://www.frg.org.uk/need-help-or-advice/advice-sheets> Or go to:

[http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/Parentalleaveandflexibleworking/DG\\_10029416](http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/Parentalleaveandflexibleworking/DG_10029416).

**d) Help from Children's Services:** Before you ask the court to make a Child Arrangements Order for the child to live with you, it is important to consider what, if any, financial or other help may be available from Children's Services. If they were involved in placing the child with you, it is possible that you have been (or should be) assessed and paid as a local authority approved foster carer. If you are in that situation, you should urgently contact Family Rights Group Advice line or a solicitor specialising in child care law – contact details in part 3 of this advice sheet.

If you are given a Child Arrangements Order (which says that the child should live with you), it may also be possible to get:

**i) A Child Arrangements Order allowance<sup>15</sup>**

This allowance used to be called a residence allowance. [You may find that Children's Services have not changed the name and are still calling them residence order allowances, even though 'residence' orders can no longer be made.]

Children's Services have the **power** to give you financial help in the form of a Child Arrangements Order allowance if you have a Child Arrangements Order saying that a child (who is not your own child) will live with you, but they don't

have to. Any payments they agree to make will be means tested and are usually reviewed on a regular basis.

If the social worker asks you to apply for a Child Arrangements Order (for the child to live with you), usually as an alternative to the child being looked after in the care system, it is worth asking them to carry out an assessment of your circumstances to see if they will give you a Child Arrangements Order allowance. It is much more likely that you will get this allowance if you ask for it **before** the Child Arrangements Order is made. However, Children's Services cannot refuse to give you support simply because you asked for it after the Child Arrangements Order was already made.<sup>16</sup>

If Children's Services agree to pay you a Child Arrangements Order allowance, ask them to confirm in writing:

- how much they will pay and for how long
- if the allowance is reviewed, that they will use the same criteria as before to decide whether or not it should continue to be paid.

You can also ask the social worker for a copy of Children's Services' written policy on when Child Arrangements Order Allowances are paid in your area.

For more information about this, see FRG advice sheet: [Support for relatives and friends caring for someone else's child](http://www.frg.org.uk/need-help-or-advice/advice-sheets) <http://www.frg.org.uk/need-help-or-advice/advice-sheets> or call FRG advice line – contact details in part 3 of this advice sheet.

## ii) **Support if the child is considered to be 'in need'**

Children's Services must also provide support services for children who are in need in their area.<sup>17</sup> This help can include:

- Help with day care
- Help with managing their behaviour
- Help with contact arrangements
- Financial help<sup>18</sup>
- Help with legal fees to apply for a Child Arrangements Order (this is discussed further on pages 19-20). But you do not have an automatic right

to local authority help with legal fees. You can ask the social worker if they have a policy about it when they help family and friends pay them. You can also ask them for a copy of their family and friends care policy to find out what help maybe available to you in your area.

The child you are raising (or want to raise) may well be considered to be 'in need' if the difficulties in their parents' home mean they need to live somewhere else. So you could ask the social worker to carry out an assessment of their needs to see if they can get extra support, for example, bereavement counselling. For further information, see FRG advice sheet on 'Family Support Services' <http://www.frg.org.uk/need-help-or-advice/advice-sheetsh> or call FRG advice line – contact details in part 3 of this advice sheet.

***If you have any problems getting support*** from the social worker for a child who you believe is in need of extra support, ***ask for a copy of Children's Services Family and Friends Care policy*** which should set out the support that is available and the circumstances in which you can get it.

***If you still cannot get the help you need, you can make a complaint:***

- using ***Children's Services' complaints system*** or, failing that,
- ***the local government Ombudsman.***

For further information, see FRG advice sheet on Complaints.

<http://www.frg.org.uk/need-help-or-advice/advice-sheets>

## **Can I get financial help for the child to be in further/higher education?**

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Please note that this advice applies to students going to university or higher education in **England**. Different rules apply for Scotland, Wales and Northern Ireland. For further information go to [www.gov.uk/browse/education](http://www.gov.uk/browse/education)

- i) **Bursaries for young people in Further Education:** There is a 'bursary' scheme for some 16-18 year olds who continue their education after GCSE's. It is administered by colleges on a discretionary basis (and replaces the previous Education Maintenance allowance). Each college has their own policy on how the

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bursary is awarded. Young people under a Child Arrangements Order (saying they will live with you) do not necessarily have a right to it but it is worth asking the college for a copy of their eligibility criteria to see if it includes young people in family and friends care. For further information go to:

[http://www.direct.gov.uk/en/EducationAndLearning/14To19/MoneyToLearn/16to19bursary/DG\\_066955](http://www.direct.gov.uk/en/EducationAndLearning/14To19/MoneyToLearn/16to19bursary/DG_066955).

**ii) University Loans and Grants:** A student applying for financial support for university is assessed on the basis of their own and their parents' household income.<sup>19</sup> A parent is defined as a natural or adoptive parent, so it does not include carers with a Child Arrangements Order saying the child will live with them who are not also the child's natural or adoptive parent. The regulations do not say that there should be an assessment of other carers' income, but they do say that if the student is 'independent' then they will not be financially assessed on parental income, but on their own income. The young person is treated as 'independent' where<sup>20</sup>:

- the young person is estranged from their parents (this is decided by the Secretary of State),
- the young person's parents have both died,
- the young person was looked after by Children's Services for 3 months ending on or after 16th birthday and before the first day of their further education course.

The 'independent student' category is decided on a case by case basis, depending on the particular circumstances of that family. Usually a young person will not be considered estranged from their parents unless they have had no contact for more than one year, or can show in some other way that their relationship with their parents has broken down irreconcilably.

Further information can be found at

<http://www.direct.gov.uk/en/educationandlearning/index.htm> and from Student Finance England, details in Part 3 of this advice sheet. You can also get additional advice from the educational body the young person is applying to.

## **How long does a Child Arrangements Order last?**

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1. A final Child Arrangements Order lasts until a child is 18 years old unless it is ended by the court before then.
2. An interim Child Arrangements Order lasts as long as a court directs it. For example, when there is a disagreement about where a child will live, a court may grant an interim Child Arrangements Order to deal with the short term arrangements until the court decides finally which person a child will live with at a longer hearing.<sup>21</sup>
3. A Child Arrangements Order will end if an interim Care Order or Care Order is made in respect of the child. (These orders would give Children's Services parental responsibility).

### **How does a Child Arrangements Order affect the child's inheritance rights?**

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A Child Arrangements Order does not alter inheritance rights so a child under an order would still inherit as a member of their birth family following their wills/intestacy.

## PART TWO: HOW DO I APPLY FOR A CHILD ARRANGEMENTS ORDER?

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This section aims to help you understand the different stages of applying to court for a Child Arrangements Order for a child to live with you, whether or not you have a solicitor.

### STEP ONE: FIRST QUESTIONS TO CONSIDER

#### Do I need an order at all?

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First, you should consider whether a court order is needed at all. Sometimes family disputes can be resolved without going to court for example by using Family Group Conferences or Family Mediation.

- ✓ **Family Group Conferences:** A Family Group Conference (FGC) is a family-led decision-making process in which the whole family comes together to make plans and decisions for a child who needs a plan that will keep them safe and promote their welfare. Professionals (for example social workers) are involved in:
  - setting out their key concerns which must be addressed in the plan at the start of the meeting and
  - agreeing the plan, and help from Children's Services, in the last stage of the meeting.

But the family are given time to draw up a plan in private which meets the child's needs and addresses the professionals' concerns.

If you think a family group conference would be useful in your case you can ask the child's social worker (if there is one) or the CAFCASS officer how you may get referred to a Family Group Conference service in your area.

- ✓ **Family Mediation:** Family mediation involves a mediator helping people who are in dispute about a child to discuss possible solutions. It can be used to sort out disagreements about things like the contact arrangements or where the child should live. Mediators keep the discussion very focussed on the areas of disagreement and what the adults think are the **child's** needs rather than their own. Sometimes this involves the mediator seeing the child to ask for their views

on particular issues to inform the adult's discussions. The mediator is neutral and therefore does not take sides. It is the people taking part in the mediation rather than the mediator who make the decisions and plans for the child.

## **Do I have to attend mediation before I make an application for a court order?**

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The law has recently changed so that, unless there is evidence of domestic violence or there are child protection concerns, people who apply for a court order about children's arrangements have to meet with a mediator to discuss whether mediation may be a suitable way of resolving their case, before making their application to court<sup>22</sup>. This meeting is called a mediation, information and assessment meeting or 'MIAM'.

This means that if you want to apply to court for a Child Arrangements Order, you will normally have to prove to the court that you have met with a mediator to discuss whether your case could be resolved through mediation. This is shown by the mediator signing your application form (Form (C100) which you have to complete and send to the court) saying whether mediation has or has not gone ahead in your case. Or, if you apply using a form C2 because you need permission to apply for the order (see page 27 below) you will also need to complete the form FM1 which the mediator will sign and send it in with the C2 form.

**So you need to arrange to see a mediator for mediation, information and assessment meeting (known as a MIAM) before you apply to court for a Child Arrangements Order.** Information on how to find a family mediator may be obtained from here: [www.familymediationcouncil.org.uk](http://www.familymediationcouncil.org.uk)

**BUT NOTE: There are some situations where you don't have to see a mediator before you apply to court.** Here are the main ones:

1. ***You do NOT have to meet with a mediator before you apply to court if:***
  - a. **There is evidence of domestic violence:** this means that you or the child who is the subject of your application has been a victim of domestic violence. You would have to show the court evidence of this, which must be of a kind

set out in the court rules. See Annex 4 below for a list of the kinds of evidence that can be relied on.

- b. There are child protection concerns:** this means that the child you want to live with you (or another child living in the same household), is the subject of a child protection investigation being carried out by Children’s Services or is the subject of a child protection plan<sup>23</sup>. You would have to show the court evidence of this, which could be a letter from Children’s Services saying that they are making child protection enquires or a copy of the child protection plan; or
- c. The child you want to live with you is already under a Care Order, an Emergency Protection Order** or is the subject of ongoing care proceedings or proceedings for an Emergency Protection Order.<sup>24</sup>
2. ***The application is urgent: you do not need to meet with a mediator if you can*** show the court that the delay caused by attending a MIAM would cause –
- a risk of harm to a child; or
  - a risk of unlawful removal of a child from the United Kingdom, or a risk of unlawful retention of a child who is currently outside England and Wales;
3. ***You have already met with a mediator for a MIAM in the last 4 months*** about this same child.

If you rely on any of these reasons for not attending a MIAM, you will have to provide evidence to the court when you make your application. You don’t have to include that evidence with your application form, but you do have to say what it is (by ticking the right box) and you will have to provide it to the court at the first hearing.

You can find out more in the court information leaflet Form CB1: [click here](#)

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/cb001-eng.pdf>

You can also go to the family mediation website for more information, [click here](#)

[www.familymediationcouncil.org.uk](http://www.familymediationcouncil.org.uk)



## **If we reach an agreement, do we still need a court order?**

It is often the case that, even if you have an FGC and make a family plan which is agreed by the social worker or you mediate an agreed solution for the child, you may still want a court order to:

- secure an arrangement which has been agreed in the family and/or with the social worker and
- give you parental responsibility to make key decisions about the child.

So you may ***still need to go back to court to ask the judge to make a Child Arrangements Order*** (or other suitable order such as a Special Guardianship Order) to confirm any agreement you have reached.

If you want further advice about this you can contact Family Rights Group Advice service or see a solicitor who specialises in child welfare law – contact details in part 3 of this advice sheet.

## **Is a Child Arrangements Order right for me? What other legal arrangements might I consider?**

If you are sure a court order is needed, then you need to decide which is the best order for you. Apart from a Child Arrangements Order you might want to consider:

- A Special Guardianship Order**.<sup>25</sup> Like a Child Arrangements Order, a Special Guardianship Order gives you parental responsibility but under a Special Guardianship Order the carer has more authority to make decisions than under a Child Arrangements Order. Also it is harder for a parent to apply to revoke a Special Guardianship Order than a Child Arrangements Order so it is usually considered to be a more permanent order. For further information see FRG advice sheet: [DIY Special Guardianship Orders: information for family and friends carers](http://www.frg.org.uk/need-help-or-advice/advice-sheets). <http://www.frg.org.uk/need-help-or-advice/advice-sheets>
- Long Term Foster Care**: When a care order has been made (or the parents or others with parental responsibility agree), children who are *looked after* in the care system can be placed permanently by Children's Services with long-

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term foster carers. The first choice they should consider is any relatives or friends of the child who are approved as formal foster carers. This means you could ask to be approved as a foster carer. This can be a ***good option if you feel you need the help and support of Children's Services to look after the child***, for example if you want to have guaranteed financial help in the form of a foster carer's allowance to be able to look after the child. However, as a foster carer

- ✓ You have to be assessed and approved as foster carers by Children's Services;
- ✓ You do not have parental responsibility, which many long term carers usually want. This means that you must refer back to Children's Services about all decisions about raising the child;
- ✓ You cannot appoint a testamentary guardian to look after the child after your death;
- ✓ If there is no care order but the child's parent has agreed to their child being 'accommodated' by agreement with Children's Services, they have the legal right to remove the child from your care (unless Children's Services or you apply for a court order to stop them doing this). However this is unlikely to be in the child's best interests unless it is planned, so if you think they are considering doing this, you could encourage them to take independent legal advice from a solicitor or Family Rights group advice service (contact details in part 3 of this advice sheet) and get some advice yourself.
- ✓ If Children's Services has a care order, they can end the placement at any time and you can only challenge this by applying for a Child Arrangements Order or Special Guardianship Order. You have a right to do this if you have cared for the child for one year already; in other cases you will have to ask the court for permission (leave) before you can apply for one of these orders;

For more information about this see: Family Rights Group advice sheet [Family and Friends Care: becoming a foster carer. http://www.frg.org.uk/need-help-or-advice/advice-sheets](http://www.frg.org.uk/need-help-or-advice/advice-sheets)

### iii) **Adoption Order:**

Adoption is rarely considered appropriate for relatives or friends caring for children, because it changes family relationships, for example if a child is adopted by their grandparents, their mother becomes their sister. However, it is still technically possible in these circumstances. Key features of an adoption order are as follows:

- ✓ The child ceases to be a member of his family of origin (birth) family. Instead, s/he becomes legally related to the adoptive family.
- ✓ The adoptive parents become fully responsible for the child in all respects. They have parental responsibility and do not need to refer to anyone else unless a court orders otherwise.
- ✓ An Adoption Order cannot be reversed.

#### **Important note:**

- Contact may continue between the child and their parents and other relatives in all the above situations if this is in the child's best interests.
- Sometimes social workers put pressure on long-term carers to apply for Child Arrangements Orders (for a child to live with them) or special guardianship orders. It is really important to get advice before making this decision. If you feel you are being pushed into this option, you can call Family Rights Group advice line for free advice – contact details in part 3 of this advice sheet.

***The key features of the different orders/other relevant legal statuses are set out in Appendix 1.*** You may want to read this and take advice before deciding which order to apply for.

## **STEP TWO: SOLICITORS AND LEGAL COSTS**

### **Do I need a solicitor?**

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Although many people prefer to have a solicitor to help them make an application to court, you do not have to. It is possible to apply on your own as a 'litigant in person' (see below for further information on page 20-21), but note if you apply without a solicitor you will still have to pay the court 'issue fee' unless you are on a very low

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income in which case you may be exempt from having to pay it - for more information see page 27.

## **If I instruct a solicitor, will I have to pay legal fees?**

If you ask a solicitor to apply for a Child Arrangements Order on your behalf, you will be responsible for paying their costs, unless you are eligible for legal aid (see next section). This can be very expensive. Solicitor's fees usually cover the cost of preparing your case, filing forms at court, representing you in court and other related costs. The costs can quickly run into thousands so you need to discuss with the solicitor **at the first meeting** with them what the costs are likely to be and then consider whether you can afford to have a solicitor helping you.

However, even if it is expensive, you may feel you need a solicitor at least for part of the process, maybe because you feel the case may be contested or because it is particularly complex. If your funds are tight, we strongly suggest that from the outset you explain your financial situation to your solicitor and discuss with them how work can be divided between them and you, so that you are only using them when it is necessary and you are not running up costs unnecessarily. This is important, since we have seen cases where carers have run out of money and have had to stop using their solicitor just when they most needed them.

If you cannot afford the solicitor's costs yourself you have four options:

### **1. You may be eligible for legal aid from the Legal Aid Agency**

There have been recent changes to the legal aid system in England and Wales. From April 2013, legal aid in family cases is considerably reduced. This section of the advice sheet outlines what kind of cases are still eligible for legal aid, and whether your income and capital will be taken into account. But, if you are thinking of instructing a solicitor and you think you may be eligible for legal aid, we strongly recommend that you contact the community legal advice helpline or a solicitor that accepts legal aid cases and ask them to assess your eligibility. Contact details for both are in part 3 of this advice sheet.

**You may still be able to get legal aid in the following situations:**

***a) Where Children's Services have applied to court for a Care and/or Adoption Order***

- if Children's Services have made an application for a Care Order, and
- you are applying for a Child Arrangements Order for the child to live with you as an alternative to the Care Order, and
- you are applying to be joined as a party to those proceedings.<sup>26</sup>

***b) If you are applying for a Child Arrangements Order to protect a child and there has been child abuse or there is a risk of abuse from the person who is the respondent to your application.***

The respondent to your application will usually be a parent, in this type of situation. You will need to show that the child is at risk of harm in their care. The kind of evidence that you will need to show 'risk of abuse' is set out in legislation.<sup>27</sup> You (or the solicitor who is helping you) will need to show the Legal Aid Agency evidence of one of the following:

- That the respondent to your application has an unspent conviction for a child abuse offence;
- That the respondent to your application was given a police caution for a child abuse offence within the twenty four month period immediately before the date of the application;
- That the respondent to your application is involved in criminal proceedings for a child abuse offence which have not concluded;
- That there is a protective injunction in force or which was granted within the twenty four month period immediately before the date of your application which protects the child from the respondent to your application;
- That there has been a finding of fact of abuse of a child by an individual other than you, made in proceedings in the United Kingdom within the previous twenty four month period immediately preceding the date of your application;
- That there is a letter from a Children's Services department confirming that, within the twenty four month period immediately before the date of your application, the child was assessed as being, or at risk of being, a victim of child abuse by an individual other than you;

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- That there is a letter from a Children’s Services department confirming that, within the twenty four month period immediately before the date of the application, a child protection plan was put in place to protect the child from abuse or a risk of abuse by an individual other than you;
- That an application for an order for a protective injunction made with an application for a prohibited steps order under section 8 of the Children Act 1989(a) which has not, at the date of the application for civil legal services, been decided by the court.

Also, for both (a) and (b) above, you will need to meet the merits and means test set by the Legal Aid Agency. This involves:

- **Merits Test:** you showing that you have a reasonable chance of being given a Child Arrangements Order saying the child will live with you when you go to court; and
- **Means Test:** your income and capital being assessed to see if you are within the financial limits set by the legal aid agency. Even if you are in receipt of benefits, your capital will still be assessed.

### ***c) Human Rights exception***

There is a catch—all provision for those cases that would otherwise not be eligible for legal aid – legal aid may be available if you can show that your human rights will be breached if legal aid is not provided, or that there is a risk of such a breach if legal aid is not provided. This is determined on a case by case basis by the Director of Legal Aid Casework who is a senior civil servant.<sup>28</sup> Your income and capital would need to be assessed as well.

If you are not eligible for legal aid under the previous two categories, you could ask your solicitor to consider whether your case might qualify under this provision<sup>29</sup>.

## **2. Children’s Services’ may help you with your legal costs**

If the social worker has asked you to care for someone else’s child then they may offer financial help towards your legal costs,<sup>30</sup> but they don’t have to. It is therefore

worth asking the social worker for help with both your legal fees and court fees (these are discussed below).

From 30<sup>th</sup> September 2011, Children's Services should have a Family and Friends Care policy explaining how they will support family and friends carers including the circumstances in which they will pay legal costs. It is therefore worth asking for a copy of this policy document so you know how your request will be dealt with.<sup>31</sup>

### **3. Other family members may be able to provide financial support.**

This might arise where for example, there has been an agreement between family members (maybe at a family group conference) that you will look after the child and they will help you with your legal costs.

### **4. You can make an application for a Child Arrangements Order as a litigant in person** (i.e.: without the help of a solicitor)

If you are not able to get help with your legal costs and you cannot afford to pay for a solicitor yourself you can apply to court for a Child Arrangements Order on your own. This means that you will have to complete the forms and speak for yourself in court. Going to court on your own might sound scary, but judges, magistrates and the court staff will often do their best to make the experience as easy as possible especially for people who do not have a solicitor.

If you are going to make the application by yourself, you can get more information about taking a case to court from:

A Guide to Representing Yourself (produced by the Bar Council)- click here <http://www.barcouncil.org.uk/media-centre/publications/2013/april/a-guide-to-representing-yourself-in-court/>

You may also get help with taking your case to court from the Personal Support Unit click here: <http://thepsu.org/>

However you need to be aware that even though you won't be paying your solicitors costs, you will have to pay the court issue fees (discussed on page 30) unless Children's Services will help you with this. Also if your application is refused it is

technically possible that you could be ordered to pay the other party's costs but this is very rare indeed.

## **Can I take someone with me to court if I don't have a solicitor?**

If you don't have a solicitor, you can ask the judge or magistrate for permission to take a friend or family member into court with you to give you support. The court will ask the other 'parties' (people) in the case if they agree; but in general someone who does not have a solicitor will usually be allowed to bring a friend with them as long as that person is quiet and unobtrusive. This person cannot normally speak for you in court, but they can give you moral support whilst you are in court, keep notes, help with managing paperwork and remind you of things you want to say.

Guidance has recently been published on how family members/friends should behave in court in these circumstances. See: [McKenzie Friends Practice Guidance](#).

## **STEP THREE: APPLYING TO COURT**

### **Which court do I apply to?**

From April 2014 there is only one type of family court, called the single Family Court. All cases must be started in the Family Court, and will then be allocated (given) to the appropriate level of judge to deal with. There are different kinds of judges

- specially trained magistrates.
- A family court district judge
- A family court circuit judge
- A family court high court judge.

Unless your case is very complicated, it will be heard by a magistrate or district judge.

***Generally speaking you should apply to the Family Court nearest to where the child lives.*** However, if you are making an application about a child where there are existing proceedings about that child, you should apply to the Family Court which now is dealing with that case.



You can find out where the nearest Family Court is by going to the Court Finder website at

[https://courtribunalfinder.service.gov.uk/index\\_area\\_of\\_law?utm\\_expId=73895903-0.tgfeEKo7ROK0BvUYqMJQAw.1](https://courtribunalfinder.service.gov.uk/index_area_of_law?utm_expId=73895903-0.tgfeEKo7ROK0BvUYqMJQAw.1)

You can check your local telephone directory. Also your local CAB or law centre will have a list of courts.

***If you are applying for a Child Arrangements Order in a case where there are already care proceedings about the child's future, the timetable for the proceedings will be very strictly controlled by the court. Under new rules, the whole case must be completed within 26 weeks. This means that there are very strict procedural rules about how and when things must be done.***

You will still need to use the forms set out below but there are other procedural steps you need to be aware of. Please refer the FRG Advice Sheet Care (and related) Proceedings or call FRG Advice line for further advice – contact details in part 3 of the advice sheet.

## **Which forms and leaflets do I need?**

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All the forms you need can be downloaded from the courts website at:

<http://www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do> or you can ask the court office to give you the forms you need. It is quite complicated to know which forms you need to complete so remember you can always ask the court staff for help.

Exactly which form you need to complete will depend on whether you have a right to apply for a Child Arrangements Order or whether you need the court's leave (permission) first and whether there are existing family proceedings about the child or not.

**a) You have a right to apply for a Child Arrangements Order if you:**<sup>32</sup>

- Are the child's parent, guardian or special guardian,
- Are the child's step parent, who is married to (or is a civil partner of) the child's parent and the child has lived with you as a 'child of the family';

- Are a foster carer approved by Children’s Services who has had the child living with you for at least one year;<sup>33</sup>
- Are a grandparent, aunt, uncle, sibling or step parent and you have had the child living with you for one year;
- Are anyone else and the child has been living with you for at least 3 years (in the last 5 years);
- Have the agreement of
  - ✓ anyone who already has an old ‘Residence Order’ on the child or has a Child Arrangements Order (which says that the child should live with them); or
  - ✓ Children’s Services if the child is in care; or
  - ✓ everyone else with parental responsibility for the child.<sup>34</sup>

**If you fall into any of the above categories, then**

- if there is no existing case about the child you need to complete **Form C100**.
  - ✓ To download form C100 click:  
<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/c100-eng.pdf>
  - ✓ <http://www.familylaw.co.uk/system/uploads/attachments/0008/5607/C100.pdf>
  - ✓ To download court guidance notes on completing court forms C100 click:  
<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/cb1-eng.pdf>
- if there is an existing case about the child which you want to join to make your application for a Child Arrangements Order, (for example, if the local authority has started care proceedings) then you need to complete **Form C2**. To download Form C2 click: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/c002-eng.pdf>
- If you use form C2, because there is an existing case about the child/children, you will also need to complete **form FM1** to show that you have attended mediation, or to show that you are exempt from attending mediation (see page 15-16 above). Form FM1 can be downloaded here:  
<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/fm001-eng.pdf>

***In either situation, you will also need form C6A*** (notice of proceedings to non-parties) which is the form you need to give to people who are not respondents in the case but who must be notified of the proceedings (see page 48 below). This will be given to you by the court when you issue your application.

### **Tips about completing Form C100**

The court will only make a Child Arrangements Order if it considers this will be best for the child. When making this decision the Court must follow the welfare checklist set out on pages 5-7 above. Therefore when completing these forms, it is a good idea to:

- explain briefly why you think a Child Arrangements Order saying the child will live with you would be best for the child,
- address any key factors from the welfare checklist
- say why a Child Arrangements Order saying the child will live with you would be better than say a Special Guardianship Order or another legal arrangement for the child and you.

If the court later needs fuller information it will ask you to do a full statement.

**Further information on completing Form C100 can be found in Appendix 2**

### ***b) people who need the permission (leave) of the court***

If you do not fall into any of the categories of people who have a right to apply for a Child Arrangements Order (see page 22) then you need the **leave** ('permission') of the court to be able to make the application.

- To apply for permission (leave) when there is no existing case, you need to complete **Form C2** (which deals with your application for leave) **and then Form C100** (which deals with your main application for a Child Arrangements Order). Forms C100 and C2 can be sent into the court at the same time. In other words, there is no need to wait for the result of your Form C2 application to go ahead with Form C100.
- If you need the court's permission (leave) but there is an existing case about the child you can apply for leave and to be joined to the existing proceedings on the one form: **C2. In this case you will also need to complete form FM1 to show**

***that you have met with a mediator, or that you are exempt from attending mediation.***

To download a form C2, go to:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/c002-eng.pdf>

As before, ***you will also need form C6A*** (notice of proceedings to non-parties) which is the form you need to give to people who are not respondents in the case but who must be notified of the proceedings (see page 48 below). This will be given to you by the court when you issue your application.

### **Tips about applying for permission (leave)**

When asking the court for permission (leave) to apply (in other words when completing the section in Form C100 about permission and Form C2) you need to explain why you are making the application. This includes addressing the things the court will look at when deciding whether or not to give your permission. These are:<sup>35</sup>

- the kind of order you want to apply for (for example a Child Arrangements Order saying the child should live with you)
- your relationship with the child (i.e.: how well you know the child and what sort of connection exists)
- whether making the application for a Child Arrangements Order for the child to live with you would cause 'disruption to the child to the extent that they were harmed by it'. For example, if the court case itself was going to cause such stress in the household where the child lives that they would be damaged by the impact of the case being heard.

Where the child is 'looked after' by Children's Services in the care system, the court must also consider

- their plans for the child's future
- the wishes & feelings of the child's parents. This may be difficult if, for example, you are a paternal grandmother and have a poor relationship with the mother, but it could also help your application if, for example, your son or daughter is happy for you to have the children living with you.

**You can find further information on how to fill in Form C2 in Appendix 3.**

If you have any further questions about how to apply for permission (leave) and how to complete Form C2 you can always speak to the court staff or contact Family Rights Group advice line - contact details in part 3 of this advice sheet.

## **What happens if there is domestic violence or abuse in the case?**

Whether or not you need the court's permission (leave) to apply for a Child Arrangements Order, ***you will also need to complete Form C1A if there has been any domestic violence or abuse*** against you or the child concerned caused by the other person involved in the case or their household or if there is any ongoing risk of harm or abuse. You can get this form and detailed guidance on how to complete it either from your local court office or from:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/c001a-eng.pdf>

## **What if I think that a Child Arrangements Order needs to be made urgently?**

If you believe that the child needs help urgently you must tell the court this. You should make this clear on your application form and it is a good idea to set out your concerns in more detail in a statement to be given to the court alongside the application form. This might arise, for example, if you are a grandparent and the child has lived with you for some time, possibly with the support of Children's Services, and their parent now says that they want to remove the child from your home and you would be concerned for the child's safety if they were to do so.

***You should mark this Statement 'draft'*** because technically the Court will need to give permission for it to be filed (go on court record) as part of your application.

The court may agree to grant you an interim Child Arrangements Order saying the child will live with for a short period, without notifying the other people involved in the case (known as parties) first. This is called **without notice**. Alternatively, the court may set an immediate hearing date, allowing for the other parties to come to court but with less notice of the hearing than they would normally be given.

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If you need further advice about this you can contact Family Rights group advice line – contact details at the end of this advice sheet.

## **Can I keep my address Confidential?**

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If you do not want to disclose your address to the parent(s) or guardian(s) of the child, then do not put your address on the forms. But you will need to fill in a **Form C8** explaining why and attach that to your application. Your address will not be disclosed without the court's permission. You can find the form on the HMCS website here: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/c008-eng.pdf>

## **Can I talk to other people about my application for a Child Arrangements Order?**

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Once you have started court proceedings about the child, the law places restrictions on what you can say about the case to other people, although you can always talk to a solicitor or other legal adviser. See leaflet **EX710 "Guidance on disclosing information about family proceedings involving children which are heard in private"**.

## **STEP FOUR: FILING THE FORMS WITH THE COURT**

### **I have completed the court forms - what do I do next?**

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You need to prepare the papers to be *filed* at court.

Check the form(s)

Sign and date the form(s)

Copy the form(s). You will need to give the court the following;

- The original signed C100, signed by a mediator saying whether or not mediation has gone ahead unless you have filled in the part claiming an exemption (see page 30) (and/or C2 and C1A and FM1 if needed)
- A copy for you to keep once endorsed as issued
- If you are going to serve the forms (see page 31-32 below about service), you need enough copies of your application form for every respondent (i.e. every

other person involved in the case, such as the parents or others with parental responsibility – see page 48 for who else you need to serve) and a copy of the notice of application (form C6A) for others who must be notified on the proceedings (see page 48 or ask the court office for advice about this)

- A copy for CAFCASS
- The court fee (normally £215) or your application to be exempt from paying the fee if you are on a low income (see below)

Take or send the correct forms, copies and fee to court.

## **What fees will I have to pay the court?**

Court fees are different to legal fees. Normally you will have to pay a court fee of £215 to apply for a Child Arrangements Order even if you don't have a solicitor. You can find out about this in the section of fees on family cases towards the end of leaflet EX50 – Civil and Family Court Fees, which you can get from:

[http://www.hmcourts-service.gov.uk/courtfinder/forms/ex50\\_e.pdf](http://www.hmcourts-service.gov.uk/courtfinder/forms/ex50_e.pdf) or from the court staff directly.

However, you can apply for a fee exemption if you are receiving a means tested benefit, or you would suffer financial hardship if you pay the fee. You can find out about this in the combined booklet *EX160A – Court Fees, do I have to pay them?*

Again, you can get a copy of this at the court,

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex160a-eng.pdf>

## **What will the court do when they receive my forms?**

The court will check you have filed the forms correctly. It will give you a date and time for the first hearing. If there are no on going care proceedings, the first court hearing will be a 'first hearing dispute resolution appointment'<sup>36</sup>. But if you made your application on form C2 because there are existing care proceedings, the first hearing will either be a "directions hearing" if you don't need permission (leave) to apply or a "leave hearing" if you do.

If you are making your application on form C100 (i.e. you are making a new application for a Child Arrangements Order) the court will send your application form to all the respondents (other people involved in the case)<sup>37</sup>. The court will also send your notice (form C6A) of proceedings to the other people who are not respondents but must be told about the proceedings.

If you are making your application on form C2 (an application in existing proceedings) the court will return the forms, together with some other forms, for you to give/send to the respondents (other people involved in the case). The court will also give you form C6A (notice of proceedings to non-parties) which you must give/send to the people listed at page 48 below. This process is known as serving the papers. There are certain things that you have to do to 'serve' the all the papers properly. To find out what you need to do, see the next section below.

## **How do I serve the papers on the respondents (other people) involved in the case (for applications on form C2)?**

The court office will tell you who to serve the papers on and it is your job to make sure this happens at least 14 clear working days before the first hearing. If you need to reduce this time period for example because you are making an urgent application, ask the court office how this time period can be reduced.

The court will normally send you a leaflet "**CB3-Serving the forms-Children Act 1989**". This explains how to serve the forms. You can also get it at <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/cb3-eng.pdf>. Key points include:

- ***When the respondent (other person in the case) has a solicitor*** you must always serve the papers on the solicitor instead of the respondent. You can either
  - take the forms to the solicitor's office and handing them in; or by sending the forms, to the solicitor's office by First Class post; or
  - Fax or email or other electronic delivery where transmission date and time can be noted and recorded in the Statement of Service.



- **When Children’s Services need to be served with papers**, you need to send/deliver their sets of papers to Children’s Services’ legal department.
- **If the respondent (other person in the case) does not have a solicitor or you are unsure if they do** you must serve the papers by handing them to the person or by sending them by First Class post or by fax or electronically as above keeping a record of time and date of successful transmission.
- **You also need to serve notice of the application (i.e. your completed Form C6A on anyone else entitled to be notified of the proceedings** (they are listed on page 48). **You do not need to send them the application form.**

**NB:** If you have ANY concerns about your safety or that of any child living with you, ALWAYS post the papers to the other person by recorded delivery or registered post so you have ‘**Proof of Postage**’ which you will need to show the court. This is particularly important if the other people in the case do not turn up to the hearing because you will be able to show that they knew about it which means it is more likely you will get your order even if they are not there.

## **How do I prove that I have served the papers correctly?**

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After Serving the Papers you **must** complete **Form C9 (Statement of Service)**. This form requires you to give details of the people you have served, the forms you served them with, and the date and way in which you served them with the papers. Once you have filled in Form C9 take a copy of it and then send or take the original form to the Court Office where it will be filed with your set of papers.

**NB:** If you have not served the papers by the date given by the court, you must let the court know and explain why.

## **What happens next?**

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Every respondent (other person involved in the case) must send a formal acknowledgement that they have received the papers to the court within 14 days of receiving them.

Other people who have been notified of the proceedings (see page 48) but who are not respondents, do not have to acknowledge that they have received the papers.

But they may decide to file their own form C2 and ask to become formally involved to the case and apply for an order themselves (for example a Contact Order).

## STEP FIVE: IN COURT

***Please note: if you are applying for a Child Arrangements Order within existing care proceedings, the case will be managed differently to the steps set out here. There will also be a very strict timetable for the case – it must be completed within 26 weeks. This means that you will have to try to comply with that timetable and get any additional evidence you need very quickly. Please refer to FRG advice sheet [Care \(and related\) Proceedings](#) or call FRG advice line for further advice.***

### **What will happen if I need the court's permission to apply for the order?**

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If you need the court's permission (leave) as discussed on page 33, the court will either:

- Give you permission (leave) to apply for the Child Arrangements Order and let you know this – they will send you a copy of the order with a date for a directions hearing on your main application for Child Arrangements Order, or
- let you know that it has listed your application for permission (leave) for a short hearing to allow the other party to be there and raise their objections if they have any.

What actually happens at that hearing will depend on a number of things, like whether the other person in the case attends, whether they have a solicitor and whether or not they agree to permission being given (even if they don't agree to the actual Child Arrangements Order being made). If permission is given, the Court may also want to go on to look at whether some initial directions about the application for child arrangements order can be agreed or decided.

## What is the FHDRA?

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Once any permission for you to apply has been granted, your application for a Child Arrangements Order will usually be listed for a 30 minute hearing called a “First Hearing Dispute Resolution Appointment or ‘FHDRA’”. This should take place between 4 and 6 weeks after you issued your application. The hearing will be before a judge, and a CAFCASS officer should be present.

***Before this hearing, you should get a phone call from the CAFCASS officer to ask you questions about the safety and welfare of the child and of you.*** The CAFCASS officer should then prepared a short report or letter; based on the telephone conversations he/she has had with you and the respondent about whether there is any risk to you or the child. This letter will be given to both parties and to the judge before the FHDRA, unless it contains sensitive information, in which case the judge will decide who sees it.

At the FHDRA, the judge and the CAFCASS will try to assist the parties to resolve the issues between them and reach an agreement. The court is responsible for ensuring that any agreement reached is safe for the child and all others concerned. If your application cannot be resolved at this hearing, the court will also consider whether temporary orders may be needed, setting out the arrangements for the child until the case is finally decided and also what procedural steps should be taken about how the case should be prepared for the final hearing.

### i) Temporary orders about arrangements for the child

- You may be granted an interim (temporary) Child Arrangements Order. This would state, for example that the child will live with you until the court considers the case again at a later hearing. It will also give you parental responsibility which includes the power to make decisions about almost all aspects of their care for the period of the order.
- In some cases the court may also want to define any temporary contact arrangement in an interim Child Arrangements Order (which says who the child should spend time with and when), but it should only do so if thinks this is safe and best for the child.

ii) Procedural steps:

- The court will look at what is and what is not agreed between you and the respondent, who are usually the parents. A CAFCASS Officer (Family Court Advisor) will normally be available to discuss the issues with you at the first hearing. Even if you have already met with a mediator, the court may suggest that you meet with a mediator again to discuss whether mediation would be useful at this stage or have a **family group conference**. You can find out more about this on pages 13.
- Where there is still ongoing disagreement about what is best for the child or you need an order to give you parental responsibility for the child, the court may order:

a) A **Welfare Report** to be prepared:

- This is often done by a CAFCASS officer but if Children's Services have been involved with the child it will normally be done by them.
- They will report to the court on what they think best for the child about who they should live with and about contact. They will also report the child's views if old enough to express them.
- To prepare the report they will meet the people concerned (including the child if they are old enough), read the court papers and speak to any one else with knowledge about the situation for the child such as teachers, social workers, health visitors etc.
- They may want to meet you with the child as well as on your own to see the bond and interaction between you.
- ***The courts will generally place a lot of weight on the recommendations of a Welfare Report.*** You should normally be sent a copy of it in good time before the court hearing. If you disagree with any point made in the Report you should initially discuss this with the CAFCASS officer or social worker.
- If you cannot resolve the issue then you will have a chance to question the CAFCASS officer or social worker in front of the judge at the final hearing.

b) An **expert** to prepare a report:<sup>38</sup>

- Occasionally it may be necessary for other expert evidence to be gathered alongside the Welfare Report, for example a report from a psychiatrist or psychologist, but this can only happen if the court gives permission.
  - Any person involved in the case can ask the court for this and they should do so as early on as possible.
  - When deciding whether to give this permission, the judge will assess the impact of any medical examination on the welfare of the child, as well as the effect of delay and extra cost. They will only give permission for an expert's report if they think this will help them to decide the case and that it is in the child's best interests.
  - There is court guidance on using experts. You can find it at: [Practice Direction 25A – Experts and Assessors in Family Proceedings - Ministry of Justice](#)
- c) What **statements** the people in the case (parties) should prepare and when. This means that:
- You may need to prepare a statement. In it you will need to explain why you think the order you are asking for would be in the child's best interests. ***It is your chance to tell the judge your story and explain why a Child Arrangements Order saying the child should live with you would be the best option for the child.*** So when you prepare this statement it is important to address the things listed in the welfare checklist on page 4-7.
  - You could also think about whether there is ***anyone else who could come to court to support your case***, such as other relatives or friends who may help you out with baby-sitting or who can confirm that you have a good relationship with the child. If you want to call others to support you they will need to prepare statements too.
- d) Whether there are other people (such as fathers without parental responsibility or other close relatives) who may need to become involved in the case in their own right who are joined as parties.

The court will set a date for the next or final hearing, giving a time estimate of how long it will take to hear the evidence in your case. It will also draw up a timetable for the case, setting deadlines for when reports and statements need to be with the court in order to **avoid delay** which may be harmful to the child.

Many children's cases settle after hearing the recommendations of the CAFCASS Officer / social worker and their reasons. However some don't and then a final hearing is necessary.

## **How do I prepare for the final hearing?**

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- If the other people involved in the case want to formally question anyone who is coming to court to support your case, you must arrange for them to be at the final hearing.
- If you want to question what someone else has said in their statement or report, including the CAFCASS Officer, social worker or an expert, you need to tell the Judge so that person is invited to attend.
- **Court bundles:** For any court hearing the court papers (applications, statements, reports etc.) must be put in order with page numbers in a ring binder, ready for the hearing with a spare copy for the witnesses. Normally the person applying for the order (applicant) prepares this 'court bundle'. If are representing yourself (without a solicitor) you **do not have to** prepare a bundle (copies of all the court papers) for the court. The rules say that the first person who does have a solicitor must do it. It is a good idea to find out in good time who is preparing the 'court bundle'. In some cases, the court may order you to prepare a bundle, but if this happens, the judge will give you instructions about how to do it.

Note:

- The respondents' solicitors should ask you to agree to the index of documents to go into the bundle. They must put the index in the front of the bundle together with:
  - the background summary
  - a chronology and
  - a list of what is agreed and what is not yet agreed so the Judge is being asked to decide it.

- You should read these documents carefully. They should be balanced and fair. If you agree with them, the Judge will take that as your position. If you don't agree with something, you can consider offering a version you could agree with or ask your solicitor (if you have one) to note on the documents that they are NOT agreed. Also ***tell your solicitor (or the judge) if documents you need the Judge to see are not in the index and give them a copy to put in.***
- If a bundle is prepared by the respondent, they must give you a copy of the index to that bundle at least 4 days before the final hearing. You should already have copies of all the documents listed in it. It is a good idea to get together your own bundle using your copies in the same order as the index provided to you.
- You don't need to read the court guidance on preparing the documents but you can find it here if you want to: [Practice Direction 27A court bundles](#).

## **What will happen at the final hearing?**

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- As the applicant, you will have to make the opening statement to the court, explaining your case. This does not need to be long, but should be a simple, clear explanation of why you are applying for an order. You might simply want to read out the short statement you made in the Form C100 about why it's best for this child that you are granted a Child Arrangements Order for the child to live with you and any plans you have for their future.
- Once you have made your statement, the solicitor or barrister representing the other person in the case will be asked to reply to your application and statement and the judge or magistrates will ask questions to clarify anything.
- If a Welfare Report has been prepared, and the CAFCASS officer/social worker is present in court, you will be able to ask them questions or make comments about the Report.
- If you are asked to speak in the witness box, you will be asked to 'take an oath' or promise to speak truthfully. You will need to answer questions from the other people's solicitors or barristers (cross-examination) or the judge. There will also be an opportunity for you (or your solicitor or barrister if you have one) to ask questions to any other person in the case.

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## **Will there be any publicity about my case?**

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Maybe. The basic rule is that a judgement in a family court case involving children **cannot** be published unless the hearing was held in public or the judge has given permission. However the rules have recently changed so that when a case is heard by a ***circuit judge or a High court judge***, certain judgements (for example in care proceedings) must be published 'unless there are compelling reasons' why they shouldn't be. This is decided on a case by case basis. You, your child and your family should not be identified but any professionals in your case would normally be named.

If you are worried about publicity talk to your solicitor about it – they may be able to argue against it in court if you have good reasons to object. If you don't have a solicitor, tell the judge why you are concerned about publicity and what impact you think this could have on the child.

## **Key points about representing yourself in court (if you don't have a solicitor)**

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- Child Arrangements Order cases are held in private. The law has recently changed to allow accredited journalists to be in family courts but at the moment they cannot report anything which would identify the child or family during the case. Journalists rarely come and the court has the power to refuse them access.
- Generally, the proceedings are fairly informal and the judge or magistrate and lawyers will not wear wigs and gowns.
- Hearings may take place in small rooms ('in chambers') rather than in a court.
- So long as you are polite and respectful to everyone you do not need to be too worried about legal matters. You can usually ask the judge for help if you do not understand what you are being asked to do, and the solicitor or barrister representing any other person in the case should explain things to you as well.
- Although appearing in court may feel scary, the judge or magistrate will not allow the lawyer to harass you. Some judges say that they gain a far better picture of the family situation and dynamics from listening to relatives give evidence rather than simply reading statements and welfare reports.
- You should go to all hearings unless the court says you don't have to.



- You can take along a friend or relative to support you (see page 23), but they will only be allowed in the hearing with you if the court gives permission for this. If your supporter is also someone who you want to call as a witness who can support your case, they will not usually be able to stay in court with you until after they have been called to give evidence.

Finally, if you withdraw your application for a Child Arrangements Order you will need the court's permission. But do get advice first - you can always call the FRG advice line – contact details in part 3 of this advice sheet.

## PART THREE: WHERE CAN I GET MORE INFORMATION?

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**Citizens Advice** is an independent organisation providing free, confidential and impartial advice on all subjects to anyone. The address and telephone number of your local CAB can be found in the telephone directory. There is also advice on line on their website. They may be able to help you find a local solicitor.

Website: <http://www.citizensadvice.org.uk>.

Advice on line Website: [www.adviceguide.org.uk](http://www.adviceguide.org.uk).

**Coram Children's Legal Centre** provides free independent legal advice to children, parents, carers and professionals. Their Child Law Advice Line provides free legal advice and information covering all aspects of law and policy affecting children. An advisor can be contacted on 08088 020 008. The advice line is open from 8.00am to 8.00pm Monday to Friday.

**Community Legal Advice** is part of the Legal Services Commission. They provide free information direct to the public on a range of common legal issues and make it easier to find quality legal help and information.

- Telephone 0845 345 4345. Staffed during office hours, with voice mail and a call back service available out of hours.
- Through the Directgov website at: [Community Legal Advice: Directgov - Directories](#).

### Family Mediation

To find a mediator, you can contact:

- Your local National Family Mediation (NFM) service in your area. A list of services can be found at the following weblink; <http://www.nfm.org.uk> or you can also call NFM on 01392 271610 - open 9.00am - 5.00pm (Monday - Friday) or email: [general@nfm.org.uk](mailto:general@nfm.org.uk); or
- The Ministry of Justice's Family Mediation Helpline (on 0845 602 6627) who can refer you to a mediator from their joint register.

Website: <http://www.familymediationcouncil.org.uk>.

Email: [info@familymediationcouncil.org.uk](mailto:info@familymediationcouncil.org.uk).

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Address: Family Mediation Council, PO Box 593, Exeter, EX1 9HG.

**Family Rights Group:** is an organisation which provides free telephone and email advice to family members who are involved with Children's Services about the care and protection of their children.

- Contact FRG's advice line for further advice, on 0808 801 0366. It is open Monday-Friday 9.30am-3.00pm. You can also email to [advice@frg.org.uk](mailto:advice@frg.org.uk).
- You can also visit <http://www.frg.org.uk/need-help-or-advice/advice-sheets> where you can download other relevant advice sheets.
- There are parent and family and friends carers discussion boards at: <http://www.frg.org.uk/discussion-board-for-homepage>.
- Family Rights Group can also put you in touch with a **Family Group Conference Service**. Email [office@frg.org.uk](mailto:office@frg.org.uk).

**The Grandparents' Association** is an organisation which provides advice and support to grandparents about caring for, or having contact with, their grandchildren.

They can be contacted at: Moot House, The Stow, Harlow, Essex CM20 3AG

Office: 01279 428040

Helpline: 0845 4349585

E-mail: [info@grandparents-association.org.uk](mailto:info@grandparents-association.org.uk).

<http://www.grandparents-association.org.uk/index.php>.

**To find a solicitor who specialises in childcare law:** you can contact

1. Solicitors Regulation Authority, Ipsley Court, Redditch, Worcestershire B98 0TD  
Telephone: 0870 606 2555 <http://www.sra.org.uk/consumers/find-use-instruct-solicitor.page>;
2. The Law Society of England and Wales, 113 Chancery Lane, London WC2A 1PL  
Tel: 020 7242 1222. Minicom: 0870 600 1560 Fax: 020 7831 0344  
E-mail: [info.services@lawsociety.org.uk](mailto:info.services@lawsociety.org.uk) [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

***You can search their website for details of local solicitors who are members of the Children Panel:***

<http://www.lawsociety.org.uk/choosingandusing/findasolicitor.law>

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3. Civil Legal Advice (CLA) See details above.
4. Citizens Advice (see details above)

### **Student Finance England**

Information on finance available for students going to university or higher education in England.

Website : [www.studentfinanceengland.co.uk](http://www.studentfinanceengland.co.uk)

### **References**

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<b>ACA</b>	Adoption & Children Act 2002 <a href="http://www.legislation.gov.uk/ukpga/2002/38/contents">http://www.legislation.gov.uk/ukpga/2002/38/contents</a>
<b>CA</b>	Children Act 1989 <a href="http://www.legislation.gov.uk/ukpga/1989/41/contents">http://www.legislation.gov.uk/ukpga/1989/41/contents</a>
<b>CAA</b>	Child Abduction Act 1984 <a href="http://www.legislation.gov.uk/ukpga/1984/37/contents">http://www.legislation.gov.uk/ukpga/1984/37/contents</a>
<b>CFA</b>	Children and Families Act 2014 <a href="http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted">http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted</a>
<b>CSA</b>	Child Support Act 1991 <a href="http://www.legislation.gov.uk/ukpga/1991/48/contents/enacted">http://www.legislation.gov.uk/ukpga/1991/48/contents/enacted</a>
<b>FFSG</b>	Family & Friends <a href="https://www.education.gov.uk/publications/eOrderingDownload/Family%20and%20Friends%20Care.pdf">https://www.education.gov.uk/publications/eOrderingDownload/Family%20and%20Friends%20Care.pdf</a>

Last updated 29 October 2014

## Appendix 1: Features of typical legal statuses of a child living in family and friends care

	<b>Informal arrangements incl private fostering</b>	<b>Children on emergency protection and care orders (EPO/CO)</b>	<b>Children accommodated by the local authority</b>	<b>Child Arrangements Order (RO) (which regulates who the child will live with)</b>	<b>Special guardianship order (SGO)</b>
<b>Who has PR?</b>	Mothers, fathers/anyone else who has acquired PR by court order or agreement with parents	LA; Mothers, fathers/anyone else who has acquired PR by court order or agreement with parents	Mothers, fathers/anyone else who has acquired PR by court order or agreement with parents	Person with CAO; mothers, fathers/anyone else who has acquired PR by court order or agreement with parents	Person with SGO who can exercise PR to exclusion of anyone else with PR; mothers, fathers/anyone else who has acquired PR by court order or agreement with parents
<b>Who can make decisions on behalf of the child?</b>	Carer can make day to day decisions about child's care but only those with PR can make important decisions e.g.: consent to medical treatment, leaving the UK etc.	Carer can make day to day decisions about the child's care in consultation with LA, but LA makes all important decisions about child in consultation with parents or carers	Carer can make day to day decisions about the child's care in consultation with LA, but only those with PR can consent to medical treatment, leaving UK etc.	Person with CAO can make decisions without having to consult others with PR (although should for important decisions) but some restrictions e.g.: name change, consent to adoption/placement, change of religion	Person with SGO who has right to exercise PR to exclusion of anyone else with PR, but some restrictions e.g.: name change, consent to adoption or adoption placement, change of religion
<b>Can the child be removed from me?</b>	Yes by person with PR	Yes by LA	Yes by person with PR	No unless CAO revoked or LA has EPO or CO	No unless SGO revoked or LA has EPO or CO
<b>Can I take the child out of the UK?</b>	Only with consent of all those with PR, or leave of court.	Only with consent of LA for up to 1 month, unless court gives leave	Only with consent of all those with PR or leave of court	For up to one month, otherwise consent of all those with PR or leave of court required	For up to three months, otherwise consent of all those with PR or leave of court required
<b>Can I appoint a guardian?</b>	Parents with PR/guardians can appoint a guardian – seek further advice on when appointment takes effect	Parents with PR/guardians can appoint a guardian – seek further advice on when appointment takes effect	Parents with PR/guardians can appoint a guardian – seek further advice on when appointment takes effect	No, person with CAO cannot appoint guardian but parents with PR/guardians can appoint a guardian – seek further advice on when appointment takes effect	SGO holders can appoint a guardian – seek further advice on when appointment takes effect
<b>Can the order be revoked?</b>	N/A	Yes on application to court	N/A	Yes – parents and others with PR have a right to apply to revoke the order	Yes but parents need leave to apply to revoke the order -only granted if there is significant change of circumstances
<b>Am I entitled to support?</b>	Discretionary support under s.17, subject to assessment	Fostering allowance payable to LA approved foster carers	Fostering allowance payable to LA foster carers	Discretionary support under s.17 and 'Child Arrangements Order' allowance, subject to assessment	Discretionary support under SG support services, subject to assessment – entitlement to assessment for SG's, child and parents

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## **Appendix 2 Filling in Form C100**

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### **Form C100**

To download form C100 click: [C100](#)

To download court guidance notes on completing form C100 click: [Court Guidance Notes CB1](#).

### **Here are some tips about completing form C100:**

#### **Page 1**

- You do not need to put a case number on Form C100 as this is a new set of proceedings and the court will therefore issue you with a new case number for your Child Arrangements Order application.
- In order to answer the question 'are you asking for permission to make this application', you will need to look back at page 24-25 of this advice sheet to see if you fall into the category of people who have a right to apply for the order or those who need leave to produce evidence that this has already been granted by attaching a copy of the order.
- You will need to say you are applying for a Child Arrangements Order (which says who the child should live with) on this page.
- You will need to complete the section about risk of harm if you are saying that there has been domestic violence or child abuse in your case, and tick to show that you have completed form C1A (see page 28 above)

#### **Page 1 and 11: The Applicants:**

It is possible to apply for a Child Arrangements Order jointly with another person for example your partner or your son or daughter if they are the parent of the child. If so you will need to list them as the second applicant.

#### **Page 2: The children:**

You will need to give the details of the children who are the subject of the application here and it is best to start with the oldest since that is how you will have listed them in the summary on the first page. If there are more than 4 children then you can photocopy page 6 and add the extra details on this separate sheet.

#### Page 4: Attendance at mediation

- You will need to say here if you have attended a MIAM or if you are claiming to be exempt from attendance for one of the reasons set out on page 14-15 above.

#### Page 5: Why are you making this application?

- **Permission (question 3a)** If you need to apply for permission to make your application, you need to write your reason here and why you think the court should give you permission (see page 26-7 above). You must also put the same information on form C2 (see further below).
- Why you are making this application (question 3b): You need to explain here why you are concerned about the child(ren) and feel that they need to be under a legal order in your care. Remember that the court must act in the 'best interests' of the child when deciding whether to grant an order and when making this decision, it must follow a list of relevant factors known as the Welfare Checklist which is set out on pages 5-7 of this advice sheet of this advice sheet. If you can refer to the checklist categories when you complete the forms it will help the court to understand why you think a Child Arrangements Order would benefit the child. However, you are not writing a statement here and should try and give a summary of your reasons, without referring in detail to evidence or events that you will rely on later.
- Agreements about child arrangements (where the child should live/who they should see): you should state here whether you have used family mediation to attempt to agree arrangements for the child:  
BUT: If you have previously used mediation remember that any discussion you had or agreements reached in mediation are legally privileged and therefore should not be shared with the court. This means that you should not put the detail of any agreements reached here but you can explain that you went to mediation and why it was not successful or why you still needed to apply to court for the order eg: the other party refused to attend or agreement could not be reached.

**Parenting Plan:** Putting your children first. A guide for separating parents: Although you are not a separating parent, the guide can sometimes be a useful tool for any adult to work through practical arrangements for sharing any part of the care of a child with another adult.

**Page 6: Urgent hearings:** You only need to fill in this section if you are applying for an urgent hearing – see page 28 above.

**Page 8: Other court cases which concern the child/children**

- You only need to complete this section if there have been in the past, court proceedings about the child/children that you are making your application about. If the court proceedings are ongoing, you should be using form C2 for your application, not C100.
- If you do not have details of any other court cases but you think there might have been you could ask the social worker if the children have one or if not you could ask the children's parents if you feel comfortable to do this.
- If you don't have all the details about a case happened in the past, just put down what information you have.

**Page 9: Cases with an international element**

- You only need to complete this section if the child or one of his/her parents is not living in the UK. If this is the case, you may wish to contact a solicitor or FRG advice line for more assistance.

**Page 9/10:**

- Factors affecting ability to participate in proceedings/ ability to attend court : you need to say on this page if you need an interpreter or additional support because of a disability or if you would like to be in a separate waiting area if for example you feel intimidated or threatened by anyone else involved in the case.

**Page 12: The Respondents:**

- The Respondents will be everyone who already has Parental Responsibility (PR) for the child i.e.:

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- the mother;
- the father if he was married to the mother at the birth of the child or the parents have married since the birth or he is registered as the child's father on the birth certificate (since 1.12.03) or he has acquired it by formal legal agreement with the mother, by re-registering the birth, or by court order (s.4 CA 1989);
- step-parents (including civil partners), if they have acquired parental responsibility by formal agreement with both parents with parental responsibility and lodged it with the Principal Registry;
- anyone else who has already been granted parental responsibility under a court order such as a Child Arrangements Order, a Special Guardianship Order or an Adoption Order;
- local authority where there is a care order in force; prospective adopters on the placement of a child for adoption with them;
- second female parent in certain circumstances; and
- guardians appointed typically by parents to care for a child after their death and the appointment has taken effect.

If you don't know who has parental responsibility again you can ask the children's social worker if they have one or the child's parents if you feel comfortable to do so. If not you can talk to the court staff about what you should put here referring to the above list of who has parental responsibility.

Generally a good rule of thumb is to assume that if an unmarried father is involved with his child, he will be on the birth certificate and will therefore have parental responsibility. Also if the children are the subject of a Care Order or interim Care Order, the local authority will have parental responsibility.

There is likely to be more than one respondent, for example the children's mother and father. There is space on the form for two respondents, however if other people also have parental responsibility, you can photocopy page 10 and add the details as a separate sheet.

### **Page 13: Others to whom notice must be given:**

Other people who do not have parental responsibility but are involved with the child in some other way will need to know about your application because they may wish to apply for an order themselves or ask the court if they can join in the proceedings, etc. You should list them here – they include:

- If the child is in local authority care (this might be a children's home or with foster carers), the Children's Services department of the local authority
- Everyone who is caring for the child
- The person who provides the home in which the child is staying if the home is a registered children's home, a voluntary home, or it is a refuge
- Everyone who you believe is named in an existing court order which concerns the child and
- Every person you believe to be a party in any other court proceedings which are taking place now about the child, unless you believe those proceedings are not relevant to your application.

If you are unsure about whether a significant person in the child's life should be listed here, you can ask the court staff to help you or contact FRG advice service.

### **Page 14: Solicitors details:**

Tell the court here if you don't have solicitors acting for you. Section R of court leaflet CB1 lists some sources of help and support in that case.

### **Page 15-18: MIAM exemptions and evidence**

You need to complete these pages if you have not attended a MIAM. You only need to complete the section that refers to the exemption you are relying on (domestic violence, child protection, urgency or a previous MIAM).

### **Statement of truth:** Sign and date the form here.

Once you have completed the form you will need to complete the summary on page 1 and then photocopy it so that there are enough copies for yourself the court and all the people you have listed on page 3 of the application form. You should then take it to the court office and pay the fee (if you are not exempt). The court will then issue

the application and give you the sets of papers which you need to serve on the respondents and others who should receive them. For details of how to serve the papers see pages 31-32 of this advice sheet.

**Remember you must also complete Form C1A where there is domestic abuse**

You need to complete form C1A if there has been any domestic violence or abuse against you or the child concerned caused by the other person involved in the case or their household or if there is any ongoing risk of harm or abuse.

## **Appendix 3: Completing Form C2**

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Form C2 is used when you need permission to apply for the order or you are wanting to join existing proceedings about the child.

You will need to fill in form C2 where you need the court's permission to apply for a Child Arrangements Order if you are NOT one of the following people:

- the child's parent, guardian or special guardian,
- the child's step parent who is married to (or is a civil partner of) the child's parent and the child has lived with that person as a 'child of the family';
- a local authority approved foster parent with whom the child has lived for at least one year;
- the child's grandparent, aunt, uncle, sibling or step parent who has had the child living with them for one year;
- anyone else with whom the child has lived for at least 3 years; or
- anyone else who:
  - where there is already a Child Arrangements Order which regulates where the child should live, has the consent of everyone who holds that order or
  - has the consent of the local authority where the child is in their care or
  - has the consent of every one who has parental responsibility for the child.

You will also need to complete form C2 if you want to join existing court proceedings concerning the child, for example care proceedings, and you want to apply for a Child Arrangements Order in those proceedings.

To download a form C2, click: [Form C2](#).

### **Tips on completing form C2:**

**Q1 -Q5:** Questions 1-5 of the C2 are exactly the same as on form C1 so you should follow the tips above for those questions,

At Q1 you will tick a box to say if you are applying for permission (leave) or not and will go on to say that the Order you are applying for is a Child Arrangements Order.

**Q6:** Details of application: where it asks what you are applying for with reasons you should explain in brief:

- why you are applying for the order now and what plans you have for the child

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- your relationship and personal connection to the child (how well you know the child and what sort of connection exists)
- If you are applying for leave to apply for a Child Arrangements Order, whether making the application for a Child Arrangements Order would cause 'disruption to the child to the extent that they were harmed by it'. For example if the court case itself was going to cause such stress in the household where the child lives that s/he would be damaged by the impact of the case being heard.

And where the child is 'looked after' by Children's Services, for example under a care order and/or living with foster carers, you should also explain

- the local authority's plans for the child's future
- the wishes & feelings of the child's parents. This may be difficult if, for example, if you are a paternal grandmother and you find communication with the child's mother difficult, but it could also help your application if you can say, for example, your son or daughter is happy for you to have the child living with you.

**Q7:** As with form C100, you need to say here if you need an interpreter or additional support because of a disability or if you would like to be in a separate waiting area if for example you feel intimidated or threatened by anyone else involved in the case.

**Remember you must also complete Form C1A where there is domestic abuse**

You need to complete form C1A if there has been any domestic violence or abuse against you or the child concerned caused by the other person involved in the case or their household or if there is any ongoing risk of harm or abuse.

**Once you have completed the relevant forms, signed and dated them, you can take them to the court along with the fee and ask them to issue the application.**

## **Appendix 4 – Evidence of domestic violence necessary if you are claiming to be exempt from attending a MIAM**

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If you are claiming that a MIAM exemption applies, you will need to tick the appropriate MIAM exemption boxes on form C100 or FM1, whichever you are using. We have listed below the types of evidence you need, but you only need one piece of evidence from this list. You do not need to include the evidence with your application form, but you should bring it to the first hearing to show to the judge. The evidence must identify you or another applicant (for example if you and your partner are joint applicants) as the victim, or it must not identify a victim at all. If someone else (but not you) is identified as the victim, it will not be sufficient to support your application.

List of evidence:

1. The respondent to your application has an unspent conviction for a domestic violence offence;
2. The respondent to your application has a police caution for a domestic violence offence given within the two years immediately before the date of your application;
3. Evidence of criminal proceedings against the respondent for a domestic violence offence which have not finished;
4. The respondent has had a protective injunction made against him/her which is in force or which was granted within the two years immediately before the date of the application;
5. The respondent has given an undertaking in England and Wales not to cause harm to the application within the two years immediately before the date of your application;
6. Evidence that the respondent to your application is on police bail for a domestic violence offence;
7. a letter from any person who is a member of a multi-agency risk assessment conference (MARAC) confirming that –
  - a. you or another applicant was referred to the conference as a victim of domestic violence; and
  - b. the conference has, within the two year period immediately before the date of the application, put in place a plan to protect you from a risk of harm by

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- the respondent;
8. A copy of a finding of fact, made in proceedings in the United Kingdom within two years immediately before the date of the application, that there has been domestic violence giving rise to a risk of harm by the respondent to you or another applicant;
  9. a letter or report from a health professional who has access to your (or another applicant's) medical records confirming that that professional, or another health professional –
    - a. has examined any you in person within the two year period immediately before the date of the application; and
    - b. was satisfied following that examination that you had injuries or a condition consistent with those of a victim of domestic violence;
  10. (a letter from a social services department in England or Wales (or its equivalent in Scotland or Northern Ireland) confirming that, within the two year period immediately before the date of the application, you or another applicant was assessed as being, or at risk of being, a victim of domestic violence;
  11. a letter or report from a domestic violence support organisation in the UK:
    - a. affirming that you or another applicant was, within the two years immediately before the date of the application admitted to a refuge for victims of domestic violence;
    - b. showing dates on which you were admitted to and, if applicable, left the refuge; and
    - c. shows that you were admitted to the refuge because of allegations that you made of domestic violence;
  12. a letter or report from a domestic violence support organisation in the United Kingdom confirming –
    - a. that you were, within the two years immediately before the date of your application, refused admission to a refuge for victims of domestic violence because of there being insufficient accommodation available in the refuge; and
    - b. the date on you were refused admission to the refuge;
  13. A letter or report from –
    - a. the person to whom the referral described below was made;
    - b. the health professional who made the referral described below; or

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- c. a health professional who has access to your medical records,
- d. confirming that there was, within two years immediately before the date of the application, you were referred by a health professional to a person who provides specialist support or assistance for victims of, or those at risk of, domestic violence;

14. A domestic violence protection notice issued by the police (under section 24 of the Crime and Security Act 2010), or a relevant domestic violence protection order made the court (under section 28 of the Crime and Security Act 2010), against the respondent within the last two years before your application.

15. Evidence of a relevant court order binding over the respondent in connection with a domestic violence offence, which is in force or which was granted in the two years immediately before the date of your application.

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<sup>1</sup> s.22 (1) Children Act 1989

<sup>2</sup> s 11(7))CA

<sup>3</sup> s12(2) CA

<sup>4</sup> s.13(2) CA; BvB (a minor) Residence Order[1992]2FLR 327

<sup>5</sup> s13(1) CA

<sup>6</sup> s12(3) CA

<sup>7</sup> s.1(3) CA

<sup>8</sup> s.1(3)(a) CA

<sup>9</sup> s.1 (5) CA

<sup>10</sup> s1(2A) CA (as amended by s11 CFA 2014)

<sup>11</sup> s.1(2)CA

<sup>12</sup> S1 CSA

<sup>13</sup> Sch 1 paras 1&2 CA

<sup>14</sup> The Maternity and Parental Leave Regulations 1999, reg 13

<sup>15</sup> Sch 1 para 15(1) CA

<sup>16</sup> R (H) v Essex County Council [2009] EWHC 353 (Admin)).

<sup>17</sup> S17(1) CA

<sup>18</sup> S17(6) CA

<sup>19</sup> The Education (Student Support) Regulations 2011 (for those starting education after Sept 2012) sch 4 para 3

<sup>20</sup> ESSR 2011 Sch4 para2

<sup>21</sup> S11(3)CA

<sup>22</sup> S10 CFA 2014 and FPR2010 Part 3

<sup>23</sup> S10 CFA 2014 and FPR Part 3.8

<sup>24</sup> S10 CFA 2014 and FPR Part 3, and Practice Direction 3A.

<sup>25</sup> S14A CA

<sup>26</sup> Sch 1 para 1(2) LASPO 2012

<sup>27</sup> Civil Legal Aid (procedure)Regulations 2012 reg 34

<sup>28</sup> LASPO 2012 s10 (3).

<sup>29</sup> For further information see [www.justice.gov.uk/downloads/legal-aid/funding-code/chancellors-guide-exceptional-funding-non-inquests.pdf](http://www.justice.gov.uk/downloads/legal-aid/funding-code/chancellors-guide-exceptional-funding-non-inquests.pdf)

<sup>30</sup> s.17(6) CA

<sup>31</sup> FFSG Chapter 4

<sup>32</sup> S10(4) CA

<sup>33</sup> S9(3)(c) CA

<sup>34</sup> s10(5)(c) CA

<sup>35</sup> S10(9) CA

<sup>36</sup> FPR 2010 r12.5

<sup>37</sup> FPR 2010 r12.8

<sup>38</sup> CFA 2014 s13