



# Children and divorce/dissolution

## What should I do before I start an application?

Read leaflets **D183 – About divorce/dissolution** and **D184 – I want to get a divorce/dissolution – what do I do?**

Will the court be concerned with all the children of the marriage/civil partnership?

No, only those who still need your care and financial support because of their age and circumstances.

You will have to name all living children of the family, no matter how old they are, when you fill in Part 7 of your petition. See leaflet **D184 – I want to get a divorce/dissolution – what do I do?**

The court will be concerned with any child who was born to you and the respondent, or who has been treated by you as though they had been born to you, who is:

- under 16, or
- between 16 and 18 and still at college or school full time.

These children are referred to as ‘children of the family’.

This includes children you have both adopted. It does not include foster children.

## Why do I have to give the court details about the children?

The court must consider the arrangements you propose for the children after the divorce/dissolution. In exceptional circumstances, it can hold up the final decree/order until satisfactory arrangements are made for them.

## What will the court want to know?

The court will want to know:

- where they live
- with whom they live
- whether the other parent will see them and how often
- about their day-to-day care
- about their health
- where they will go to school
- what financial support they will receive, and
- that any special arrangements to help or protect them have been made.

## Does this mean I must ask the court to make orders about all these things?

No. It is better if you, the respondent (and the children if they are old enough to understand) can agree these things together without the court having to make an order (referred to as 'exercising its powers under the Children Act 1989').

Whether or not you and the respondent agree about the children the court will only make an order about them if it would be better for the children than making no order at all.

Parenting Plans is a free guide which aims to help you and your ex-partner agree what the future arrangements for your children will be, and is available from your local divorce court, or by phoning The Stationery Office on 0870 600 5522 or online at [www.tsoshop.co.uk](http://www.tsoshop.co.uk) (by typing 'parenting plans' into the search box).

## How will I tell the court about the arrangements proposed for the children?

When you start your divorce/dissolution you must fill in form D8A (statement of arrangements for children) which sets out the proposals you are making.

The respondent can also sign the form D8A to show that he or she agrees with what you propose.

## What will happen if the respondent will not sign the form D8A?

The court will send the respondent a copy of form D8A with your petition. He or she will be asked to fill in form D10/D510 (acknowledgment of service) to say whether or not they agree with what you have proposed.

If they do not agree they can make their own proposals on a form D8A and send it to the court. If this happens, the court will send you a copy.

## When will the Judge consider the arrangements for the children?

Normally when the Judge looks at the papers after you apply for your decree nisi/conditional order. See leaflet **D186 – The respondent has replied to my petition – what must I do?** You will not normally have to attend court when this happens.

## What will happen if the Judge is satisfied with the arrangements for the children?

The court will send you form D84B/D584B (notice of satisfaction with the arrangements for the children). This will tell you that the court does not need to 'exercise its powers under the Children Act 1989'.

Form D84B/D584B will be sent to you and the respondent with form D84A/D584A, the form which tells you when your decree nisi/conditional order will be pronounced. Leaflet **D187 – I have a decree nisi/conditional order – what must I do next?** will tell you what happens after your decree nisi/conditional order is pronounced.

## **What can the Judge decide if s/he is not satisfied with the arrangements proposed for the children?**

In exceptional circumstances he can decide you cannot obtain your final decree/order until satisfactory arrangements are made for the children.

In that case you will be sent a copy of form D66 (notice that decree should not be made absolute)/D566 (notice that conditional order should not be made final).

In other cases the Judge can decide any of the following:

- That s/he needs further information about the children. You will be told what extra information you have to provide.

OR

- That an appointment should be fixed for you and the respondent to come and see the Judge about the children. The appointment will be held in the Judge's room (called 'chambers'). Normally only you, the respondent and the Judge will be there.

OR

- That a welfare report should be prepared about the children. A Cafcass children and family reporter will contact you and the respondent and make an appointment to see you both. He or she will want to talk to the children as well. The Cafcass practitioner will prepare a report and when it is ready it will be sent to the court office. The court will tell you how you can get a copy.

OR

- That it would be better for the children if the arrangements you are proposing, or some other matter about them, should be in a court order. If this happens you will need to apply formally to the court. You should ask a solicitor to help you.

Form D84C will tell you what will happen next and what you need to do.

## **What kind of orders can the court make?**

The most common types of order are orders for financial support and 'section 8' orders.

There are different types of section 8 orders:

- 'residence orders' which say who the children should live with.
- 'contact orders' which say who the children are allowed to see, or receive letters or telephone calls from.
- 'prohibited steps orders' which prevent a child's parents, or any other named person, from taking certain steps, such as taking a child abroad without first getting the court's permission.

- ‘specific issues orders’ which set out precisely how a particular matter about the children should be handled such as their schooling.

The court can also make orders such as ‘care orders’ or ‘emergency protection orders’ where the children are being abused or at risk of harm.

For more information please see leaflet **CB1 – Children and the family courts**.

## **Where do I apply for financial support?**

If you are asking for maintenance for a child, in most cases you should apply to the Child Support Agency (CSA). If you are asking for a capital lump sum or a property adjustment order for a child, you should make an application to the court, whether or not you are also applying to the CSA for a maintenance calculation.

There are some situations in which the CSA does not have power to make a child maintenance calculation, including where the respondent is the step-parent of the child. In these situations, you may be able to make an application to the court.