



Royal Court of Jersey
Family Division

PARENTAL RESPONSIBILITY AGREEMENTS
GUIDANCE NOTES

Judicial Greffe
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www.gov.je/familycourt

What is parental responsibility?

The Law says what parental responsibility is and who has it. If you have “parental responsibility” you have all the duties, rights, duties and authority, which, by law, a mother or father has for his or her child.

You have parental responsibility if:

- You are the child’s mother; or
- You have a custody order or residence order for the child; or
- You have responsibility under an emergency protection order for the child; or
- You are a guardian of the child; or
- You have adopted the child; or
- You are the child’s father and you were married to the child’s mother when the child was born (in which case you will normally share responsibility with the mother); or
- You are the child’s father and you were not married to the child’s mother when the child was born but
 - (i) you have from the Court a residence order or a parental responsibility order, or
 - (ii) you have entered into a parental responsibility agreement with the child’s mother; or
 - (iii) you have since married the child’s mother

N.B. A father does not automatically have parental responsibility if he was not married to the child’s mother when the child was born.

Someone other than a parent may have parental responsibility, if a Court makes an order which gives it to that person.

Parental Responsibility Agreements

A Parental Responsibility Agreement is a legal document in which a child’s mother and father (if they were not married when the child was born) agree that the father will have parental responsibility for the child in addition to the mother.

It must be drawn up and signed on a special Parental Responsibility Agreement Form which you can obtain from the Judicial Greffe.

Before you enter into the Agreement try to get legal advice about what it will mean for you and the child’s other parent.

When you have filled in the Agreement you will have to sign it in the presence of a witness who should give his or her full name and address. You must then send the Form to the Family Division, Judicial Greffe.

The Registrar will then register your Agreement and return a copy to you.

Who may apply for an order

Only certain people may apply for a Court order. See the table at the back to see who may apply for different types of orders.

You only have the **right** to apply if you are someone shown in the table at the back of the booklet **and**, if you want to apply for an order which deals with maintenance for a child, you are at least 18 years old.

For some orders, you can't apply for the order unless you have the Court's permission ('leave') to make the application in the first place. An application for leave is made on Form C2 which is obtainable from the Judicial Greffe.

Who are the "parties" in a case?

These may include:

- Everyone who could apply for the order if they wanted to
- Everyone who has parental responsibility (see above)
- Anyone whom the Court has ordered to be convened, that is who the Court has ordered to be made a "party" to the case.

If someone else has applied for a Court Order without including you as a party to the proceedings, you may apply to be joined as a party if you think you have a right to be heard by the Court.

Orders that may be made

These are the Court orders that are most frequently sought -

1. Parental responsibility orders (see above).
2. Article 10 orders. There are four types of Article 10 orders -
 - i) A residence order. This order states with whom the child is to live. It lasts until the child is 16 or for longer if the Court finds that there are exceptional circumstances.

A residence order can be granted to more than one person. It also prevents anyone from changing the surname of the child, or removing the child from Jersey, without the agreement of everyone who has parental responsibility or without an order of the Court.

However if you have a residence order, you can take the child out of Jersey for up to one month.
 - ii) A contact order. This order requires the person with whom the child is living to allow that child to visit, stay or have contact with a particular person to the extent specified in the order.

As with residence orders, contact orders continue until the child is 16 years. The Court will only make contact orders for children over 16 years old in exceptional circumstances.

The Court may order that direct contact be supervised or unsupervised, or the Court may order indirect contact, for example by letter.

iii) A prohibited steps order; and

iv) A specific issue order

Both these orders are concerned with a specific single issue.

Because of the nature of these orders, and because urgent action is often needed you are urged to get legal advice.

3. Financial provision for children (Schedule 1 orders).

The usual orders are for periodical payments for the benefit of or to a child. The Court may consider that such an order should continue beyond 17 and it can be extended where the child is going on to further education, training or is disabled. Lump sum and property transfer orders may be sought.

4. Article 14 orders. There are two types of Article 14 orders -

i) Removal from Jersey

ii) Change of a child's surname

An application is required to change a child's surname or to remove the child from Jersey, if a residence order is in force, (see above) and those who have parental responsibility do not consent. However, the parent with residence can take the child out of Jersey for a period of up to a month.

The Forms you need

The forms you need depend on whether you apply for –

an order; or
leave of the Court; or
to be joined as a party

Where to get the Forms

You can get the Forms from the Family Division, Judicial Greffe, Royal Court, Royal Square, St Helier, or download the Parent Responsibility Form from the Children Forms and Applications area within www.gov.je/familycourt or obtain the Forms from the Citizens Advice Bureau.

If you apply for:-

an order for more than one child; or
for more than one order.

you have to use the **SAME** form.

1. Non-Financial applications

If you apply for a non-financial order in respect of a child or children, you must complete one of the following Forms -

If there are existing divorce proceedings.

TO BE JOINED	FOR AN ORDER	FOR DIRECTIONS
C2	C2	C2

If there are no divorce proceedings

LEAVE NOT NEEDED FOR AN ORDER	TO BE JOINED	FOR LEAVE	FOR DIRECTIONS
C1	C2	C2	C2

2. Financial applications – non –divorce proceedings only

If you apply for a financial order(s), or a discharge or variation of financial order(s) in respect of a child or children complete one:-

- AND**
- (i) Form C1.
- AND**
- (ii) Form C3 – supplement for an order for financial provision for a child or variation of financial provision for a child.
- AND**
- (iii) Form C4– a statement of means.

If you are a party to divorce proceedings, the Court will deal with financial claims for children in the divorce proceedings, so you MUST use the form required by the Matrimonial Causes Rules 2005.

Court fees

Court fees will be payable, but your financial circumstances may be such that you are not required to pay. Further information can be obtained on request.

The Court procedure

How you ask the Court to make a decision.

You apply to the Registrar of the Family Division, Judicial Greffe for an order, by filling in the appropriate application form(s), as set out above. You may apply for more than one order, but must use the same form. **In emergency cases, the Court may allow you to apply without telling the other party or parties, (ex parte) but in such circumstances you are advised to seek legal advice.**

The respondents are everyone who you believe has parental responsibility. If you are applying to vary an existing order, this also means everyone named in the existing order who is not the child. For financial orders, in addition to those with parental responsibility, also name everyone who you believe may be affected by the application, and if varying a financial order also everyone named in the order who is not a child.

There may be no other persons to whom notice is to be given, and if so you will state "None".

Filing your papers at Court

When the Court gets your application forms it will give you a file number and the date and time when the Court will first consider (hear) your case. This is called a **Preliminary directions hearing ('PDH')**. The processed forms will be returned to you for service.

Serving the forms

You must then **serve the form(s) on the respondent(s)**. The forms must be served so that you give at least two clear working days notice before the PDH. **YOU ARE RESPONSIBLE FOR SERVICE.**

There are rules about service, and if someone has a lawyer acting for them, you **must serve the lawyer.**

In an emergency, the Court may allow you to apply ex-parte (i.e. without serving the forms on the respondent(s)).

If you do not want the case to continue

When you have given your forms to the Court, you may subsequently apply for leave to withdraw your case.

The PDH

If you have lawyers acting for you, only they need attend. However if you do **NOT** have lawyers you **MUST** attend.

1. Children applications: non-financial.

The Registrar will find out firstly whether the parties are willing to attend mediation. If so, the application is likely to be adjourned so that mediation can take place.

If mediation is not possible (or fails), then a date for a case review hearing will be given when the parties and their lawyers (if instructed) must attend. The Registrar

normally requires each party to speak to a Court Welfare Officer prior to the Case Review hearing.

2. Children applications: financial matters (but not in divorce proceedings- see above page 7).

The Registrar will usually make directions as to the filing of evidence about the parties' finances, and fix a date for a Case Review hearing.

Case Review hearing.

All parties **AND** their lawyers **MUST** attend.

1. Non-financial

Immediately before the case review hearing you and your spouse will individually speak with the Court Welfare Officer so that he or she can find out what scope there is for agreement.

The purpose of the case review hearing, which again is held before the Registrar, is to determine whether anything can be done to sort out the dispute, and find out what outstanding areas of disagreement need to be addressed.

Sometimes, as a result of this process, agreed orders can be made. Even if there is not full agreement, there may be agreement as to certain aspects of the dispute, and interim or full orders may be made.

However, it may be necessary for a welfare report to be ordered and a date set for a final full hearing of the case. Directions may be made as to the filing of evidence, including what witnesses, if any, are to attend and if necessary, medical reports.

A welfare report will be prepared by a different Court Welfare Officer.

2. Financial applications.

If agreement cannot be reached, the Registrar may make further orders as the filing of further evidence, and will set a date for a final hearing. The Registrar will normally order that the parties are to set out/confirm in writing what orders are being sought at a specified time before the final hearing. Interim child maintenance orders (periodical payments) may be made.

The Final Hearing

You, your lawyer and the witnesses, together with the Court Welfare Officer in non-financial disputes, must attend the final hearing. Difficult or lengthy cases may be referred to the Inferior Number of the Royal Court (i.e. the Bailiff or the Deputy Bailiff sitting with two Jurats).

CHILDREN (PARENTAL RESPONSIBILITY AGREEMENT) RULES 2005*Made**[25th August 2005]**Coming into force**[1st August 2005]*

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 5(3) of the Children (Jersey) Law 2002, has made the following Rules -

1. Form of parental responsibility agreement

A parental responsibility agreement must be made in the form set out in the Schedule to these Rules.

2. Recording of parental responsibility agreement

(1) A parental responsibility agreement is recorded by the filing of the agreement, together with two copies, with the Judicial Greffier.

(2) Upon the filing of documents under paragraph (1), the Judicial Greffier shall seal the copies and send one to the child's mother and one to the child's father.

(3) The record of an agreement under paragraph (1) shall be made available, during office hours, for inspection by any person -

(a) upon written request to the Judicial Greffe, and

(b) upon payment of such fee as may have been specified in regulations made by the States under Article 3 of the Stamp Duties and Fees (Jersey) Law 1998.

3. Citation and commencement

These Rules may be cited as the Children (Parental Responsibility Agreement) Rules 200- and shall come into force on the same day as Article 5 of the Children (Jersey) Law 2002.

Registrar of the Family Division

FORM OF AGREEMENT
(Rule 1)

Parental Responsibility Agreement	Date Recorded
Article 5(1)(b) The Children (Jersey) Law 2002	
<ul style="list-style-type: none"> ▶ Please use black ink. ▶ The making of this agreement will seriously affect the legal position of both parents. You should both seek legal advice before completing this form. ▶ If there is more than one child, you should fill in a separate form for each child. 	

This is a parental responsibility agreement between

the child's mother	<i>Name</i>
and	<i>Address</i>
the child's father	<i>Name</i>
	<i>Address</i>

We agree that the father of the child named below should have parental responsibility for [him] [her] in addition to the mother.

Name	Boy/Girl	Date of Birth	Date of 18 th birthday

Ending of the agreement

Once a parental responsibility agreement has been made it can only end -

- by an order of the court made on application of any person who has parental responsibility for the child.
- by an order of the court made on the application of the child with leave of the court.
- when the child reaches the age of 18.

Signed (mother)		Date	
Signature and name and address of witness		Date	
Signed (father)		Date	
Signature and name and address of witness		Date	

This agreement will not take effect until this form has been filed with the Judicial Greffe (Family Division). **Once this form has been completed and signed please take or send it and two copies to The Registrar of the Family Division, Judicial Greffe, Royal Court House, Royal Square, St Helier, JE1 1JG**