



Royal Court of Jersey
Family Division

The Children (Jersey) Law 2002

A PROCEDURAL GUIDE

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www.gov.je/familycourt

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What is the Children (Jersey) Law 2002?

The Children (Jersey) Law 2002, sets out provisions for the welfare of children and their protection.

What is the purpose of this Guide?

The guide is only in respect of **private law cases**. This means where there are disputes about a child between parents, members of a family or interested parties. The guide does not cover care proceedings or other cases involving the Children's Service.

This guide gives you information if you want to make an application about a child

- it tells you what parental responsibility is, who has it, how to agree it or apply for parental responsibility

- it details some of the other orders that you can ask for, who can apply and how to apply
- it describes the Court procedure

What this guide does not give you

- **it does not give a statement of the law. You are strongly recommended to get legal advice. A Court order may affect your life, or the child's life in ways you may not have thought about. You must decide what to do and what order/s you want to ask the Court to make**
- **it will not help you to decide what to ask the Court to do or whether going to Court is the best way of helping a child**
- **it does not give you legal advice and Court staff are NOT allowed to give you legal advice or tell you about your different legal options.**

Parenting Plan and sorting out arrangements

As you know your child[ren] best, you should be best able to make arrangements for them which suit their needs.

Try to reach agreement. A constructive approach will help the children to adjust to changes.

The Jersey Family Court Advisory Service (JFCAS) have a booklet called "Parenting Plan – Planning for your Children's Future". It will help you agree on what may work best for your children and for both of you. Get the "Parenting Plan" from the Family Court, Judicial Greffe or download from www.gov.je/familycourt under the Children Forms and Applications section – [Parenting Plan](#).

Sort out matters yourselves if at all possible. If you cannot agree on the arrangements, you may be able to sort these out by attending mediation.

Family mediation

- Mediation is a way of settling differences about children
- Family mediation can be faster, cheaper and easier than going to Court

- You can mediate during and/or after the breakup of a relationship
- Family Mediation Jersey have qualified independent mediators. They will not take sides or try to get you back together. The mediators can help you and your ex-partner agree the best arrangements your children. A mediator will not tell you what to do but will help you both to see if there is any way that you can agree with each other.

Not all cases are suitable for mediation. Mediators will not start mediation if they think it is not appropriate. For example, not where there has been violence in your relationship or there are serious welfare concerns.

Anything you talk about during mediation will usually stay private. It will not be reported to the court unless there are issues of child protection or alleged criminal offences . If you apply for a court order, the court will ask if you have attended mediation. The application may be adjourned so you can attend mediation.

You can contact Family Mediation Jersey at Family Mediation Jersey TEL 638898 or visit their website at www.fmj.je

Where to find the Law

Links to the Law and Rules can be found on www.gov.je/familycourt. See the [Children \(Jersey\) Law 2002](#), [Children Rules 2005](#) and [Children \(Parental Responsibility Agreement\) Rules 2005](#).

Definition of ‘child’

“Child” usually means someone who is under 18. However, certain orders, such as a residence order or contact orders, don’t usually apply to a person over 16. If the Court finds there are exceptional circumstances, an order can last longer. A child maintenance order may continue beyond 18 (if, for example, the young person is in full time education).

Legal Aid

You may be eligible for Legal Aid. To find out if you are eligible, you must contact the Acting Bâtonnier on: 0845 8001066.

The welfare of the child and the ‘no order’ principle

The child’s welfare is the main consideration of the Court. It will have regard to the ‘welfare checklist’ as set out in Article 2 of the Law. The court will put your children’s best interests first and this may be different to what you want.

The Court will only make an order if it thinks that it would be best for the child. Sometimes the Court may decide that it would be best not to make any order. This is known as the ‘no order’ principle.’

At the back of this booklet are some of the orders which the Court can make and who may apply for them. The Court may also change (vary) an order or end an order (discharge the order).

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; or
- You are the child’s father and you were not married to the child’s mother when the baby was born but you were registered as the child’s father in the register of births **on or after the 2nd December 2016**, or became registered as the child’s father under Article 56 of the Marriage and Civil Status (Jersey) Law 2001;
- 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 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. If a father was not married to the child's mother when the child was born he does not automatically have parental responsibility

Someone other than a parent may get parental responsibility, if a Court makes, for example, a residence order in their favour.

Parental Responsibility Agreements

A Parental Responsibility Agreement is a legal document. If the father and mother were not married when the child was born (and the father was not registered as the child's father in the register of births **on or after the 2nd December 2016**, or became registered as the child's father under Article 56 of the Marriage and Civil Status (Jersey) Law 2001) they can agree that the father will have parental responsibility for the child. The mother already has parental responsibility.

- A special Parental Responsibility Agreement Form must be completed and signed. You can get the form from the Judicial Greffe, or download it from **Children Forms and Applications** on www.gov.je/familycourt
- Try to get legal advice about what it will mean for you and the child's other parent before you sign
- When you have filled in the Agreement, sign it in the presence of a witness. He or she must give their 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?

You only have the **right** to apply if you are someone shown in the table at the back of the booklet. If you want to apply for an order which deals with maintenance for a child, you must also be at least 18 years old. **The table at the back shows who can apply for orders without leave. It also shows who has the right to apply for different types of orders.**

For some orders, you cannot 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 (see the table)
- Everyone who has parental responsibility (see above)
- Anyone whom 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, and you think you should be, apply to be joined as a party, file a form C2.

Orders that may be made

These are the Court orders that are most usually sought -

Parental responsibility orders (see above).

Article 10 orders. There are four types of Article 10 orders -

- **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. The order prevents anyone from changing the surname of the child, or removing the child from Jersey, without:-
 - either the agreement of everyone who has parental responsibility
 - or without an order of the Court.

If you have a residence order, you can take the child out of Jersey for up to one month.

- **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.

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:-

- direct contact supervised, supported/overseen or unsupervised
 - or the Court may order indirect contact, for example by letter.
- **A prohibited steps order;** and
 - **A specific issue order**

Both the orders are for a specific single issue.

Because urgent action is often needed you are urged to get legal advice.

Financial provision for children (Schedule 1 orders)

Usually this is for periodical payments (child maintenance). An order may continue beyond 17 where the child is going on to further education, training or is disabled. Lump sum and property transfer orders may be applied for.

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

- **Removal from Jersey**
- **Change of a child's surname**

A parent with a residence order 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 made a party to the case

Where to get the Forms

Get the Forms from the Family Division, Judicial Greffe, Royal Court, Royal Square, St Helier, or download the Forms from

Children Forms and Applications at 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, complete one of the following Forms:-

If there are existing divorce proceedings:-

TO BE JOINED	FOR AN ORDER	FOR DIRECTIONS
C2	C100	C2
	when you are applying for an Article 10 order or an Article 14 order – see pages 4, 5 & 6 – or C1 for any other order	

If there are no divorce proceedings

LEAVE NOT NEEDED FOR AN ORDER	TO BE JOINED	FOR LEAVE	FOR DIRECTIONS
C100	C2	C2	C2
when you are applying for an Article 10 order or an Article 14 order – see pages 4, 5 & 6 – or C1 for any other order			

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:-

- Form C1

AND

- Form C3 – supplement for an order for financial provision for a child or variation of financial provision for a child

AND

- Form C4– a statement of means

If there are Divorce proceedings, the Court will deal with financial claims for children in the Divorce proceedings. You MUST use the form required by the Matrimonial Causes Rules 2005.

3. Non-Disclosure of address

If you do not wish to reveal your address (or that of the child) file a Form C14 with your above application.

Court fees

Court fees will be payable unless your financial circumstances are such that you are not required to pay. Further information can be obtained on request from the Viscount's Department. The court fees payable are shown under **Family Division – Services and Fees** at www.gov.je/familycourt

The Court Procedure

You may ask the Court staff for information about Court procedures.

Completing the Forms

How you ask the Court to make a decision?

- Apply 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. If more than one applicant, both must sign
- **In emergency cases, the Court may allow you to apply without telling the other party or parties, (ex parte). In such circumstances you are advised to seek legal advice**

- Make sure you keep copies of the forms
- If you fail to provide the full details as required on the form(s), your case will be delayed for the information to be provided by you

Who are the respondents?

In all cases, the respondents are everyone who you believe has parental responsibility. In addition:-

- if you are applying to vary or discharge an existing order, this also means everyone named in the existing order who is not the child
- for financial orders, name everyone who you believe may be affected by the application. If varying a financial order name everyone stated in the order who is not a child
- if applying to discharge a guardian order, also the parties in the application for the appointment of a guardian
- if applying for a discharge of a parental responsibility order, name the people in the application for a parental responsibility order.

Others to whom notice should be given

There may be no other persons to whom notice is to be given, and if so you will state "None". However, if there are other persons to be notified, they are set out in schedule 1 of the Children Rules 2005.

Your address and contact details

The court needs your address, telephone number and e-mail details to contact you. If you do not wish your address and/or contact details of a child made available to the other party or parties, you must complete C14 (Confidential Address Form).

Where does the child(ren) live?

If more than one address, provide these and state with whom the child lives e.g. partners, aunts, uncles, grandparents. See above about form C14.

Children's Service

The Court needs to know if the child or children are the subject of child protection orders e.g. care orders, on the child protection register or known to Children's Service. The Court may seek more information from the Children's Service.

Security

If you are worried about security at Court, please let the Court staff know.

Filing your papers at Court

The court will check your form. If you have given all the information and, where necessary, provided the Court fee, the Court 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.

REMEMBER: Keep copies of all documents filed by you at Court. If you fail to do so, you there is a photocopying charge.

Serving the Forms

You must then **serve the form(s) on the respondent(s)**. If there are other people to whom notice must be given also serve them. 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 you may apply for leave to withdraw your case.

The Preliminary Directions Hearing ('PDH')

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

Children applications: non financial

The Registrar will find out 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 is set for a case review hearing. The parties and their lawyers (if instructed) must attend. The Registrar normally requires each party to speak to a Jersey Family Court Advisory Service (JFCAS) Officer before the Case Review hearing.

Meeting with a JFCAS Officer

You will be required to attend a meeting with a JFCAS officer. JFCAS look after the interests of children involved in family proceedings. They advise the Court on what they consider are the best interests of the children. JFCAS carry out checks with the Children's Service and the police so you will have to complete police check forms. The court expects parents to attend the "Keeping Children In Mind" course. However the JFCAS office will inform the Court if someone should not attend the course.

The JFCAS officer usually provides a Pre-CRH report before the hearing.

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

The Registrar will usually make directions as to the filing of evidence about the parties' finances. A date will be fixed for a Case Review hearing. The Registrar will find out whether the parties are willing to attend mediation.

The Case Review Hearing ('CRH')

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

Non financial

The Registrar will decide whether anything can be done to sort out the dispute, and find out what are the outstanding areas of disagreement.

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

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 about 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 JFCAS officer.

Financial applications

If agreement cannot be reached, the Registrar may make further orders about 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 wanted. Interim child maintenance orders (periodical payments) may be made.

The Final Hearing

You, your lawyer and the witnesses, together with the JFCAS 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).

Privacy in Children Cases

The Children (Jersey) Law 2002 and Rules say you can only talk about your case and show court papers to your lawyer (if you have one) other parties, the JFCAS officer, a children's guardian (if appointed) and an expert authorized by the Court or in mediation.

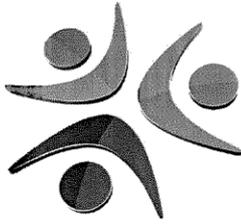
ALSO SEE:

- [General guidance for litigants in person](#) (these are for people attending court without a lawyer)
- [Guidance relating to children proceedings](#) Here you will find more detailed guidance on specific areas

USEFUL NUMBERS

Family Mediation Jersey TEL 638898 . www.fmj.je

Acting Bâtonnier (responsible for the allocation of lawyers to litigants under the Legal Aid Scheme) TEL: 0845 8001066



Parenting Support Services

The Bridge, Le Geyt Road, St Saviour. Jersey JE2 7NT

Tel: +44(0)1534 449481 Fax +44 (0)1534 449451

Email: parentingadmin@gov.je

“Keeping Children in Mind”

A three hour course looking at:

- Talking to your children about separation and divorce
- The effects of this life changing event on children and adults
- Practical ideas on developing a co-operative parenting relationship with your ex-partner
- How to deal with less than ideal situations

Courses are run on the last Wednesday evening and Friday morning of each month. You will be offered the next course available.

Wednesday evening 6pm - 9pm at The Bridge

Friday morning 9.30am - 12.30pm at The Bridge

If you would like a place on the “**Keeping Children in Mind**” course

Please fill in this application, tick the boxes and send to the address above

I enclose a cheque for £40.00 Payable to “The Treasurer of the States”

Alternatively, the name of the person we should invoice is:.....

Name.....

Address.....

Postcode.....

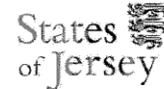
E-mail address.....Telephone.....

If you do not wish to attend the same course as your partner/ex-partner, could you please enter their name? (Optional)

.....

Are there any safety issues that we should be aware of?.....

Where did you hear about us?.....



Education, Sport and Culture

Data Protection Fair Processing Statement. *Your personal information has been collected by Parenting Support Services for the purpose of administering your application for a course with us. Your information will not be passed to any third parties without your prior consent