



Royal Court of Jersey
Family Division

DISSOLUTION OF A CIVIL
PARTNERSHIP
ARRANGEMENTS FOR CHILDREN

Judicial Greffe
Royal Court House
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St Helier
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www.gov.je/familycourt

You may ask the Court staff for information regarding Court procedures, but Court staff are NOT allowed to offer legal advice or advise you about your different legal options.

Why it is better to reach agreement

Before beginning proceedings to dissolve your civil partnership or separating from your civil partner, one of your first concerns will be about your child[ren]'s future.

Try to reach agreement with your civil partner as to arrangements for the children as a constructive approach through the proceedings for dissolution or separation will help the children to adjust to the changes.

As you know your child[ren]'s best, you should be best able to consider how the break-up of your civil partnership will affect them, and to make arrangements which best suit their needs. It is better for you to sort matters out yourselves if at all possible, but if you cannot agree on the arrangements, you may be able to sort these out by attending mediation.

The Statement of Arrangements (Form CP5)

The person starting proceedings for dissolution of a civil partnership or for a separation order (“the applicant”) will need to submit a completed Statement of Arrangements for the Children, Form CP5.

Before doing this, the applicant should try and reach agreement with his/her civil partner (“the respondent”) about those arrangements. The Court will need to know about the child[ren] treated by you as though they were yours (known as “children of the family”). These include adopted children, but not foster children.

A. What happens if agreement is reached?

The respondent is served with the cause application for dissolution or separation including a Form CP4 Acknowledgement of Service and the Form CP5 Statement of Arrangements for the Children. If the respondent agrees with the arrangements for the children, he/she must sign and date Form CP5.

Both Forms CP4 and CP5 are then returned to the Court, and copies are then sent by the Court to the applicant (or to the applicant's lawyer). The applicant (or the lawyer) then applies for ‘the Greffier's Certificate’, enclosing the relevant documentation. If the Registrar is satisfied with the paperwork, he/she issues the Greffier's Certificate and, if the application for dissolution is undefended, sets a date for the pronouncement of the Conditional Order, and in a Separation case application for a Separation order.

If the Court is satisfied about the arrangements for each child, this is stated in the Court Minutes, and a Certificate of Satisfaction will be issued to you. Six weeks and a day after the pronouncement of the Conditional Order, the applicant can apply to the Registrar for the civil partnership to be dissolved. If he/she does not do so, the respondent may apply three months after the six weeks period by filing a summons. There may be special cases of urgency when an earlier application may be made.

An order for dissolution will not be made unless the Registrar is satisfied with the arrangements for each child of the family, or unless there are circumstances in which it may be necessary to make the order without delay, and there is an undertaking from both parents that the arrangements about the children are to be brought before the Court within a specified time.

B. What happens if you cannot reach agreement about the child/ren of the family

The respondent can file his or her own Statement of Arrangements (also in Form CP5), and negotiations can take place to try and reach agreement about the arrangements.

The Court will not make any order relating to a child unless it is satisfied that making an order would be better for the child than not making an order.

Even if Court proceedings have started, you can still continue to try and reach agreement attend mediation.

Orders that may be made

A child's welfare is the main consideration when the Court considers the upbringing of a child.

The Court will apply the 'welfare checklist' to help it make a decision as to what is best for a child and it will have regard to the 'welfare checklist' as set out in Article 2 of the Children (Jersey) Law 2002.

Amongst the orders available are so called 'Article 10 orders':-

- i) Residence Order – A residence 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 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 unless there is 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) Contact Order – A contact order requires the person with whom the child lives to allow that child to visit, stay or have contact with the person named 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.

Direct contact may be ordered, unsupervised or supervised, or the Court may order indirect contact, for example by letter.

Article 10 orders also include 'prohibited steps orders' and 'specific issue orders'. 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

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 Court procedure in contested cases

Completing the Forms

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 Form C1. 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.** 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.

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 from the Viscount's Department. The court fees payable are shown at www.gov.je/familycourt

Filing your papers at Court

When the Court gets your C1 form it will process it, and if you have given all the information required, 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.

Security

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

Serving the Forms

You must then **serve the form(s) on the respondent(s)**, and if there are other person to whom notice must be given to 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

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

The Preliminary Directions Hearing ('PDH')

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

The Registrar will find out firstly whether you are both 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 Jersey Family Court Advisory Service (JFCAS) Officer before the Case Review hearing (see below) and will, unless not appropriate, expect parties to attend the "Keeping Children In Mind" course.

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 and advise the Court on what they consider are the best interests of the children. They carry out checks with other organisations in particular the Children's service and the police and you will be required to complete police check forms. The court expects parents to attend the "Keeping Children In Mind" course, but the JFCAS office will inform the Court if someone should not attend the course.

The Case Review Hearing ('CRH')

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

The purpose of the Case Review Hearing 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 JFCAS officer.

The Final Hearing

You, your lawyer and the witnesses, together with the JFCAS officer must attend the final hearing. Difficult or lengthy cases may be referred to the Inferior Number of the Royal Court (i.e. the Bailiff, the Deputy Bailiff or a Commissioner sitting with two Jurats).

Privacy in Children Cases

You can only talk about your case and show court papers to your lawyer (if you have one) other party, the JFCAS officer, a children's guardian (if appointed) and an expert authorized by the Court or in mediation.

USEFUL NUMBERS

The Jersey Family Mediation Service TEL 638898

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

THE LAW AND RULES

Links to the Law and Rules can be found within the **Civil partnership breakdown guidance section** at www.gov.je/familycourt

See the Civil Partnership (Jersey) Law 2012 and the Civil Partners Causes Rules 2012 <http://www.jerseylaw.je/law/LawsInForce/chapter.aspx?Chapter=12>

Other Breakdown of Civil Partnership Guidance Notes available from the Civil partnership breakdown guidance section within www.gov.je/familycourt

- Procedural Guide for Dissolution of a Civil Partnership
- Guidance Notes for completing a Cause application
- Draft Cause application
- Breakdown of Civil Partnership - Financial Orders