



Royal Court of Jersey  
Family Division

# The Children (Jersey) Law 2002

**A PROCEDURAL GUIDE**

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### **What is the Children (Jersey) Law 2002?**

The Children (Jersey) Law 2002, contains comprehensive provisions for the welfare of, parental responsibility for and protection of children.

### **What is the purpose of this Guide?**

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

This booklet does:-

- (a) describe what parental responsibility is, who has it and how it can be agreed or applied for;
- (b) detail some of the other orders that can be applied for in private family law cases, who can apply and how to apply;
- (c) describe the Court procedure.

**This guide does not give a statement of the law and 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. You must decide what to do and what order/s you want to ask the Court to make but you are strongly recommended to obtain legal advice as a Court order may affect your life, or the child's life, in ways you may not have thought about.**

**Try to reach agreement as to arrangements for the children as a constructive approach will help the children to adjust to the changes.**

As you know your child[ren]'s best, you should be best able 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.

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. **REMEMER: Keep copies of all documents filed by you at Court. If you fail to do so, you will be charged for any photocopying (currently £1 per page).**

### **Where to find the Law**

Links to the Law and Rules can be found within the Divorce, separation and relationship breakdown guidance section on [www.gov.je/familycourt](http://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 order, don’t normally apply to a person over 16. But if the Court finds there are exceptional circumstances, an order can last longer, and a child maintenance order may continue beyond 18 (if, for example, the young person continues 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 when the Court considers the upbringing of a child, and it will have regard to the ‘welfare checklist’ as set out in Article 2 of the Law.

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

Some of the orders which the Court can make and who may apply for them are given in the table at the back of this booklet. The Court may also change an order (called varying the order) or end an order (called discharging or terminating the order).

Parental responsibility and parental responsibility  
agreements

### **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, or download the form from [Children Forms and Applications](#) on [www.gov.je/familycourt](http://www.gov.je/familycourt)

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?

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. **See the table at the back to see 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 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 by filing a form C2.

### 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.

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, supported/overseen 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 (child maintenance) 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 Forms from **Children Forms and Applications** at [www.gov.je/familycourt](http://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
<b>C2</b>	<b>C1</b>	<b>C2</b>

##### **If there are no divorce proceedings**

LEAVE NOT NEEDED FOR AN ORDER	TO BE JOINED	FOR LEAVE	FOR DIRECTIONS
<b>C1</b>	<b>C2</b>	<b>C2</b>	<b>C2</b>

**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:-**

- (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 from the Viscount's Department. The court fees payable are shown under **Family Division – Services and Fees** at [www.gov.je/familycourt](http://www.gov.je/familycourt)

The Court Procedure

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 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) 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.

### **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, 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.
- 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, the parties in the application for a parental responsibility order.

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**

The court needs your address, telephone number and e-mail details to contact you.

### **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.

### **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**

When the Court gets your application forms it will check your form, 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.

## 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.

### **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 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.

**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. The Registrar will find out whether the parties are willing to attend mediation.

### 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 (see p13 below), but the JFCAS office will inform the Court if someone should not attend the course.

### The Case Review Hearing (‘CRH’)

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

**1. Non-financial**

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.

## **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 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).

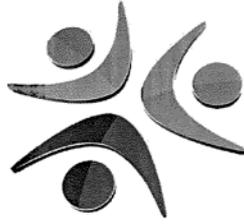
## Privacy in Children Cases

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.

**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**



# 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?.....



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