



DJY Child Arrangements Order (contact)

This step-by-step guide has been designed for grandparents who have lost contact with their grandchildren and are, after trying all other options, considering taking their case to the Family Court to apply for a Child Arrangements Order without using solicitors or other legal professionals.

Although many grandparents prefer to have a solicitor to help them make an application, this can be very expensive. Legal aid is very rarely available for applications to the court for contact with a grandchild. One way of keeping down the costs is to instruct a solicitor or a barrister via direct access, only for certain parts of your case such as checking or drafting a document or representation at a specific hearing.

Before embarking on court action, you may wish to obtain some initial advice from a legal specialist. Many of the solicitors on Grandparents Plus' Lawyers List provide free one-off advice. Go to www.grandparentsplus.org.uk for the full list.

If you don't use a solicitor or barrister you will still have to pay court fees unless you are on a very low income. If you are on a means tested benefit, or would suffer financial hardship as a result of paying the fees, you may be exempt. The court can give you advice and you can find out more information by going to gov.uk/court-fees-what-they-are.

1. Is going to court the right step for all the family?

There are many options that grandparents should consider before taking the issue of contact to court, not least because there is no guarantee of success.

Talking it through

Family conflict thrives on poor communication and things said in the heat of the moment. Talking as a family, or one-to-one, should be your first step in building bridges and working out together how you can keep in contact with your grandchild.

It's essential to remember that you and the parents should put the well-being of the child at the heart of any discussion. What is best for them must come first, whatever the outcome.

If you feel you're being drawn into the conflict and that harsh words are being thrown around by all involved, try and take a step back and remain calm. This is important as it's also the key way to move forward and enable the rest of the family to be more constructive in working out what happens next.

If it's impossible to talk face-to-face, you could write or email the parent or carer who is refusing contact. To help you get started we have a model letter/email included at the end of this document.

Mediation

Sometimes family conflict is so difficult that professional help is needed. Family mediation can be a way forward, as it can resolve serious family disputes by focusing on the future and save stress, time and money by allowing you and your family to find your own solutions and reach an agreement.

The process of mediation is flexible depending on a family's needs, but the general process is the same. All parties at the mediation meeting explain their concerns and needs to each other in the presence of a qualified family mediator.

A mediator may talk to both parties separately at first, to see whether mediation is suitable for you. After that the entire process is dealt with in meetings between the two parties and the mediator. Family mediation is free of charge for people who are eligible for legal aid. If you do have to pay then the fee is set by your local service.

You can get more information and find your local mediation service by contacting the National Family Mediation Service (NFM) on 0300 4000 636 or visiting www.nfm.org.uk.

Please note that in most cases you must undertake a Mediation and Information Meeting (MIAM) before applying for a Child Arrangements Order.

2. Child Arrangements Orders

If you haven't been able to resolve the issue yourself or with the help of mediation then your last option is to go to court. When a grandparent goes to court for access to their grandchildren they need to apply for a Child Arrangements Order.

What is a Child Arrangements Order?

A Child Arrangements Order (CAO) can set out who a child or children will live with, who they will spend time or have contact with, and when and how these arrangements will take place. This guide explains how to apply for a CAO about contact but does not cover CAOs which state where a child should live. The law states that grandparents need to seek leave (permission) from the Family Court before making a court application for contact.

What does the Court take into consideration when making a CAO?

The child's welfare is the paramount consideration for the court. The court must decide that a CAO is the most appropriate order to make in the best interests of the child. In doing this they take into account a number of key factors, commonly known as the **Child Welfare Checklist**.

The Child Welfare Checklist covers seven key considerations:

1. The wishes and feelings of the child concerned.
2. The child's physical, emotional and educational needs.

3. The likely effect on the child if circumstances changed as a result of the court's decision.
4. The child's age, sex, background and any other characteristics which will be relevant to the court's decision.
5. Any harm the child has suffered or may be at risk of suffering.
6. Capability of the child's parents (or any other person the court finds relevant) at meeting the child's needs.
7. The powers available to the court in the given proceedings.

In relation to making any decision on a CAO the Family Court usually requires a report that looks at all issues surrounding the child's interests. The report, called the Welfare Report (or Section 7 Report), is prepared by the Child and Family Court Advisory and Support Service (Cafcass) Officer and must include information from the seven elements of the Child Welfare Checklist.

Cafcass Officers look after the interests of children involved in family proceedings and are independent of the courts and social services.

For more information about Cafcass visit www.cafcass.gov.uk or call 0300 456 4000. If you are in Wales please visit CAFCASS Cymru at cafcass.gov.wales.

Where to apply

Generally speaking you should apply to the Family Court nearest to where the child lives. However, if you are making an application about a child where there are existing proceedings about that child, you should apply to the Family Court which is dealing with that case.

You can find your relevant court by going to courtribunalfinder.service.gov.uk.

Mediation Information Assessment Meeting (MIAM)

Unless there is evidence of domestic violence or child protection concerns, anyone applying to the court about children's arrangements must undertake a compulsory Mediation Information and Assessment Meeting (MIAM) before applying for a CAO.

At a MIAM, a mediator will explain the process and benefits of mediation in the context of your individual circumstances and assess whether the case is suitable for mediation. The other party is also asked to attend a MIAM but they don't have to attend the same meeting. If, after your MIAM, it's considered that mediation is not suitable in your case, the mediator will sign the court form to confirm you have attended the session.

MIAMs are not free, unless you are eligible for legal aid which can cover these costs. Contacting a number of mediators can help you compare costs and find the service that suits you best.

To prove you have attended a MIAM, you need to get form FM1 filled in and signed by the mediator. You can get a copy from the court or by going to <https://www.gov.uk/government/publications/give-information-for-a-family-mediation-assessment-form-fm1>.

3. Applying to Court

If you haven't been able to resolve the issue yourself or with the help of mediation then your last option is to go to court. When a grandparent goes to court for access to their grandchildren they need to apply for a Child Arrangements Order.

Filling in the forms

Grandparents do not have an automatic right to apply for an order – they must apply to the court for 'leave' (permission). This involves completing two separate forms:

- Leave to apply - Form C2
- Application for an Order - Form C100

If there is an existing case about the child, you can apply for leave and to be joined to the existing proceedings on the same form - C2.

Please note that if you have concerns about the welfare of your grandchild, you should produce details of these on Supplement Form C1A.

You can collect the forms and application guidance notes (leaflet CB1) from your local Family Court, or you can download them from <https://www.gov.uk/government/collections/court-and-tribunal-forms>.

When filling in the forms, don't leave questions blank as this could delay the process. If you don't know what to write ask the court staff or say you don't know or it doesn't apply.

Form C100 asks the nature of the order you wish to apply for. Suggested wording is: 'An order to set out how often they spend time with the applicant and for how long'.

Making the application

Once you have filled the forms in, send or deliver them to your designated Family Court. This is called 'lodging' or 'filing' your application. File both forms (C100 and C2) at the same time to avoid paying two lots of court fees.

Check you have attached the correct fees. The current fee to apply for a CAO is £215.

For up-to-date costs of applying for a court order asks the court officials or go to [gov.uk/court-fees-what-they-are](https://www.gov.uk/court-fees-what-they-are).

Check how many sets of papers you have to submit. For example, if there are two parent respondents you will need five sets of papers, one for the court, each parent, Cafcass and one for you.

The court will return your application to you along with a notice of hearing and copies of the application for each respondent. You will need to provide these documents to each respondent unless the court informs you otherwise. This process is called 'service'. The form CB3 will provide you with further information about this.

Do not add additional statements or documents at this time.

If you want to take a supporter to court it is helpful to write to the court in advance as you will have to get permission from all sides for them to be allowed into the court.

If you need help or special facilities such as an interpreter or disability access make sure you tell the court in the relevant section of forms C100 or C2. The court should contact you to find out more about your specific needs. Remember, if you are unsure of anything ask at the court office.

What happens next?

Once the court has received your application, it will check you have completed the forms correctly, that you have attended a MIAM (if necessary) and included all other relevant documents. If you have, it will officially start your case (issue your application) and give your application a case number.

The court will either give you permission to apply for the Child Arrangements Order, or let you know that it has listed your application for permission for a short hearing to allow the other party to be there and raise their objections if they have any.

If permission is granted the court will send you documentation about the next steps you need to take. If there are no existing proceedings you will receive a notice that your application has been listed for a 'First Hearing Dispute Resolution Appointment' (or FHDRA). This is usually about four to six weeks after you've issued your application. The case may be heard by a judge or by lay magistrates assisted by a court legal adviser. A Cafcass Officer known as a Family Court Adviser should also be present at the hearing.

4. Representing yourself at Court

Being a Litigant in Person

When you represent yourself at the Family Court, you are known as a Litigant in Person.

Family Courts are used to dealing with Litigants in Person and understand that many people cannot afford legal representation. The court will do all that is reasonable to make sure that you have a fair hearing. The court will not expect you to know family law, but you will need to prepare your case as carefully as possible so that the court is clear about what you want and why.

You can find more information at www.gov.uk/represent-yourself-in-court.

Personal Support Unit (PSU)

This is a voluntary organisation operating in a number of courts in England and Wales, providing free support and assistance to unrepresented individuals. PSU volunteers are unable to give legal advice but can provide valuable support in case preparation, help filling in forms and organizing your papers, emotional support, and in some cases can go into court with you. For more information see www.thepsu.org.

Help from a layperson

As you are applying on your own without legal representation, a layperson or friend, sometimes called a McKenzie Friend, may be able to help you in court. That person might provide moral support, take notes, help with papers or quietly give advice on points of law or procedure, issues that you want to raise in court and questions you may want to ask witnesses.

A McKenzie Friend has no right to act on your behalf, speak to the court, examine witnesses or sign the court documents. You should tell the court at the start of the hearing if you want to have a McKenzie Friend present.

Some McKenzie Friends charge a fee for their service and it may cost less to instruct a solicitor or barrister. It's very important to do thorough research before appointing a McKenzie Friend.

Managing your paperwork at court

If neither party has legal representation, the court may request that you prepare a 'court bundle'. This is a folder containing all the documents filed within the proceedings. In the event the court does request that a bundle be filed, the Family Court officials can give guidance and help about how to prepare it. You can also find guidance at https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_27a.

At the court

When you get to the court, find a member of court staff and tell them you have arrived. They may be at a desk or in the reception area to the court. You should tell them if you have legal representation or a McKenzie Friend with you.

Tips when preparing for Court

- Leave plenty of time to get to court the first time, aiming to arrive one hour before the hearing time. Make sure you know where the court is and check out parking if coming by car. Check the court order listing the hearing as it often contains a direction that parties attend by a certain time in advance of the hearing to allow for discussions or meeting Cafcass.
- Do not bring glass bottles or anything sharp to the Court, as it will be confiscated by security.
- Bring a snack and soft drinks and a supply of paper and pens.
- Many courts have private conference rooms which tend to work on a first come first served basis. You can ask the court usher if there are any available.
- If you bring your mobile phone, put it on silent before going into court.
- Keep your papers in order.
- Don't worry too much about what to wear. Make sure you look clean, presentable and comfortable, and don't wear anything too distracting or dressed up.
- Expect to be in court all day, even if the case is listed to last only 30 minutes. The court will list several cases on the same date so you may have to wait.
- Always bring your case number.

The purpose of the first hearing is to establish what the issues are in your case and explore whether any agreement can be reached on child arrangements for your grandchild. It will be quite informal and will normally be held in a small room called a 'hearing room' or 'chambers'.

The hearing can last between 30 minutes and an hour. If you do not attend, the court can refuse your application or go ahead without you.

If you reach agreement on contact arrangements the court will record this agreement and may make a consent order. If the court feels the parties can keep to any negotiated agreement a court order may not be necessary - an order will only be made if it is considered to be in the child's best interests.

If no agreement or only partial agreement is reached at the first court hearing, the judge or magistrate will set a timetable for what happens next. The court can make an interim order setting out any arrangements agreed thus far. The judge can suggest mediation/dispute resolution or may order a Cafcass report. A full Cafcass report can take up to 14 weeks during which time the Family Court Adviser will meet the children and parties and conduct a welfare investigation. The court will then list the case for a further hearing.

If you are unable to reach agreement the court will order the case to be listed for a final hearing. The issues to be determined at the final hearing will be defined and the court may make directions for filing of further evidence or statements.

A statement is a narrative relating to the application before the court. The statement is often your opportunity to put forward your position and your reasons for that position.

Withdrawing Your Application

If you decide to withdraw your case you can only do so with the court's permission. Don't withdraw without careful thought – just because the process is slow it doesn't mean you won't get an order.

Final Hearing

The format for the final hearing will be a matter for the judge or magistrates. As the applicant in the case you will usually be asked to speak to the court first. You will give sworn evidence which involves giving an oath or affirming that you will tell the truth. The judge or magistrates and the parents or their legal representatives can ask you questions. This process is repeated with the parents and the Family Court Adviser. If you are representing yourself it will help if you give some prior thought to the questions you would like to ask. You can write these down and bring them to court if this helps. The court will only allow questions that are relevant to the issues to be decided and will want to avoid any family conflict that does not relate to child arrangements.

The judge or magistrates then decide what arrangements are in the best interests of the children and whether this requires a court order. If the case is complex and there has been a lot of evidence the court may not give the decision on the day of the hearing but provide a date for a further hearing when the decision and reasons will be given.

If successful, you will obtain an order setting out the arrangements for you to spend time with your grandchildren. Any breach of the order by the respondent would be contempt of court.

Tips on what to expect and what to ask

- Try to keep calm and don't interrupt the person who is speaking. Don't forget, you will have a chance to say what you think.
- If you disagree with anything that is said, make a note of it so that you remember to mention it when it is your turn to speak. If you have a McKenzie Friend, they can help take notes of what is being said.
- At the final hearing you will be the first to explain the reason for your application and the order you are seeking. Keep it simple and clear. The judge or magistrates will have read your statement in advance of the hearing so there is no need to repeat this. You should say why you needed to apply for the court's help, what you want the court to do and why you feel this would be the best thing for the children.
- Giving evidence is where you tell the story of your case. Be open, honest and clear about your feelings and situation. Think through all the issues and show you are aware of the consequences of obtaining a CAO.
- Ask the judge or magistrate if you don't know what is happening or need a legal term explained. If you don't understand a question say so and ask for it to be phrased in a different way.
- If a Cafcass report is being considered you can ask questions about it.
- You may be cross-examined under oath on your statement.
- You must come to all hearings unless you are told by the court that you need not attend.
- The court is there to act in the child's best interests. They will do their very best to help you make your case clearly and to ensure a fair hearing.

What happens if I'm not successful?

The list of useful contacts below includes organisations that will be able to help you come to terms with your situation and move forward in a positive way.

Useful Contacts

Citizens Advice

www.citizensadvice.org.uk

Citizens Advice provides online information and advice and has Bureaux all over the country delivering free, independent, confidential and impartial face-to-face and telephone advice.

Coram Children's Legal Centre Child Law Advice Service 0300 330 5480

www.childlawadvice.org.uk

The website has detailed information and advice on family and children law matters in England including contact issues. It also has a section on court processes in private family law cases, and practical advice on representing yourself in court. The helpline is for advice on more complex matters and clarifying questions.

Family Lives

0808 800 2222

www.familylives.org.uk

Family Lives offers advice and support on all aspects of family life.

Resolution

01689 820272

www.resolution.org.uk

Resolution's members are family lawyers and other professionals who believe in a constructive, non-confrontational approach to family law matters. Use the website to find a Resolution specialist in your area.

National Family Mediation Service (NFM)

0300 4000 636

www.nfm.org.uk

Family mediation can be the most effective method of resolving family disputes, especially where children are involved. Agreements that have been freely negotiated can help restore communication, understanding and trust. In most cases mediation must be attempted before applying for a CAO. You can get more information and find local services by going to the NFM website or calling the number above.

Advocate (previously known as Bar Pro Bono)

<https://weareadvocate.org.uk/>

Bar Pro Bono is a charity which helps to find free legal assistance from volunteer barristers. Cases must be referred by advice agencies or solicitors.

The Law Society

020 7320 5650

solicitors.lawsociety.org.uk

Use the Find a Solicitor database or phone the number above to find a solicitor in your area who is accredited in family or child law.

Personal Support Unit

www.thepsu.org

PSU assistance is free and independent. Trained volunteers help people who are facing civil court proceedings without legal representation. PSUs are based in courts around the country and there is also a London-wide service.

Further questions? Grandparents Plus advice service provides:

- **Free, comprehensive advice on welfare benefits and other sources of financial support.**
- **Independent advice and information on a wide range of other issues including employment, housing, education, disability parenting and legal options.**



Open Mon – Fri 9.30am – 3.30pm. Translation service available.
Call **0300 123 7015** or email advice@grandparentsplus.org.uk

Model letter/email

Dear

I hope things are okay with you. It's been quite a while since we have talked or seen each other, so I/we am/are sending this letter/email in the hope that you will look again at the problems we're having as a family and consider agreeing for me/us to be in contact with [name]. You know I/we love and miss seeing him/her/them very much.

I/We want to make clear that I/we don't wish to take sides, judge or blame – I/we would just like us to find a way for [name] to have more contact with me/us. It has been a tough time for them because of the divorce/separation/split and I/we don't want to add any more pain.

Relationships with their extended family are important to a child because each side of the family is part of them, and I/we think this is one of the reasons why [name] misses out by not seeing me/us. People say that a strong sense of who you are and where you come from can help a child through difficult times and can make them more confident. Having other family who are close can be a comfort and a source of support, love and affection.

I/we also wanted to say that I/we am/are here and would welcome the chance to help like I/we did before. I/We can go back to picking up [name] from school sometimes, or give you some free time over the holidays by taking [name] like we used to. [Add any other suggestions about what you did to help out with your grandchildren in the past].

Please think about how [name] is losing out by not being able to have contact with me/us. Of course I/we want to see him/ her, but my feelings and wishes are not as important as what he/she may be missing. We could take it step by step – maybe [name] could talk with me/us on the phone, or send emails, or social media messages? Simple things like that could make such a difference to all of us. When you have had time to think about all that I've/we've said, I/we hope that you will feel able to get in touch – even by email/post.

Please send [name] my/our love. Take care, and look forward to hearing from you.

