

Can the child apply for an order?

The child concerned may be able to make an application for an order, however only with the courts permission. The court will only grant this permission if it is satisfied that the child has sufficient understanding to make the proposed application. The court may also appoint a Guardian ad Litem (an individual appointed to represent the best interests of the child for the purpose of the legal procedure).

Other leaflets in the series:-

CHI01—What the court expects from parents considering asking for a court order

CHI02—Court Orders regarding children

CHI03—How do I apply for a court order in a children's matter?

CHI04—How do I apply for Parental Responsibility?

CHI05—Children's matters—directions appointments and hearings

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**ISLE OF MAN
COURTS OF JUSTICE**

Court orders regarding children. **CHI02**

Children's Matters

Court orders regarding children

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This section is for orders regarding children born while their parents were married.

Along with your divorce order and any application for financial provision, there may also be the matter of any children of the marriage for which arrangements must be made.

It is always best if you can come to an amicable agreement with the other parent regarding any children. This can save time and money, as well as causing the least amount of distress to the child(ren).

However there are times when you may need the court to make an order over any issues or disagreements you may have with the children.

These are the orders that can be applied for:

Contact Order

These are orders that require the person with whom a child lives to allow that child to visit, stay or have contact with a person named in the order. For example if your child lives with your former partner and you wish to see your child at weekends then you might apply for a contact order, if you cannot agree this between yourselves.

Residence Order

These orders decide where and with whom the child is to live. For example if you and your partner have separated and you want your child to live with you, but you cannot agree this, then you might apply for a residence order.

Specific Issue Order

These orders give instructions about a specific issue that has arisen about an action normally undertaken by a parent. For example if you and your former partner cannot agree on whether your child should have a major operation, then you might apply for a specific issue order. The court can also make orders such as "Care Orders" or "Emergency Protection Orders" where the children are being abused or at risk of harm.

Prohibited Steps Order

These orders mean a person must have the court's permission before undertaking actions specified in the order that would normally be undertaken by a parent.

For example to require a parent to seek the court's permission before removing the child from the jurisdiction.

Appointment of a Guardian

An order appointing a person who will take over parental responsibility for a child, e.g. after the death of a parent.

Applications for orders regarding children can become lengthy and complex. It is highly recommended that you seek legal advice before starting an application if you intend to do it without an advocate.

Before you complete any form, you should read it through carefully and you should always state clearly what you are applying for.

Please note that the court staff cannot help you to decide what to put on the forms, or give you any advice about your case. The court always recommend if you are unsure of the relevant acts/rules which relate to applications, or have queries regarding the contents of applications you should seek legal advice and/or contact a Manx advocate. The names of Manx advocates who are Family Law practitioners may be obtained from the Isle of Man Law Society.

Who can apply for an order?

There are some people who have the automatic right to apply to the court for an order; however there are some people who must first seek the court's permission to apply for an order.

The following people have the right to apply to the court for any order under section 11 of the Children & Young Persons Act 2001:-

- any party to a marriage in relation to whom the child is a child of the family;
- any person with whom the child has lived for a period of at least 3 years (does not need to be continuous, but in the last 5 years and within the last 3 months before the application);
- any person who has the consent of any person who has a residence order in their favour;
- any person who has the consent of the Department of Health and Social Security, if the child is in care; and
- any person who has the consent of each person (if any) who has parental responsibility for the child.

Other applicants

If you do not fall into one of the above categories, you may still be able to apply for an order; however you must seek the court's permission first.

When applying for permission, the court will take the following into account:

- the nature of the proposed application;
- the applicant's connection with the child;
- any risk of the proposed application disrupting the child's life to such an extent that they would be harmed by it; and
- if the applicant is a foster parent, the Department's plans for the child's future and the wishes and feelings of the child's parents.