



Kinship Care Support Service

Residence Orders

What is a Residence Order?

This is a court order which sets out with whom a child is to live.

The courts may grant a joint Residence Order to more than one individual, whether they live together or separately and are sharing the care of the child between them.

Does the Residence Order give parental responsibility?

Yes, for the lifetime of the order, the holder of the order has Parental Responsibility of the child. This will be shared with anyone else who has parental responsibility for the child.

How long does the order last?

The residence order usually lasts until the child turns 18. When a joint order is in place, the specific times when the child will stay with each person may set out in the order.

Who can apply for a Residence Order?

You have the right to apply for a residence order if you are:

- The child's parent or guardian
- The married step-parent (or civil partner) of the child, if the child lived with you as a child of the family
- A person who has consent of any person who has an existing residence order, or of everyone who has parental responsibility

And where there is no such agreement:

- A relative (grandparent, aunt, uncle, sibling or step parent), with whom the child has lived for a period of at least one year
- Any other person with whom the child lived for a period of at least three years.

Other people who do not fall into these categories can apply for a residence order but they have to apply for permission from the court first.

Where and how do we apply?

Normally you would apply for a residence order at your local Magistrates Court or the County Court; in rare cases you may have to apply to the High Court.

You will have to complete certain court forms to apply for a residence order. Exactly which ones will depend on whether you have a right to apply for a residence order or whether you need the court's permission first (see above):

- **Form C100** if there are no ongoing proceedings that relate to the child
- **Form C2** if there are existing proceedings which you want to join to make your application for a Residence Order, (for example, if the local authority had started care proceedings);
- **Form C2 and then Form C100** if you need the leave of the court because you don't fall into any of the above categories; **and**
- **Form C1A in all cases where** there has been any domestic violence or abuse against you or the child concerned caused by the other person involved in the case or their household or if there is any ongoing risk of harm or abuse.

These forms can be obtained from the court office or they can be found on the court website at <http://www.hmcourts-service.gov.uk/HMCSCourtFinder/FormFinder.do>

The leaflet CB1 available on the Courts website gives a lot of information about applying to the court for an order relating to a child. You can also ask the court office to give you copies of the relevant forms and advice about what you need to include. You can also get further advice about this from Family Rights group Advice Service (contact details on the next page).

How does the court decide?

The child's welfare is the paramount consideration for the court in reaching a decision. This principle is guided by the 'welfare checklist' which the court must apply in contested cases. This includes:

- The wishes and feelings of the child
- The physical, emotional and educational needs of the child and who is best able to be able to meet those needs
- The effect of any change of circumstances on the child, which will include considering the present household routine of the child up to now
- The child's age, sex and background, including religious and cultural background
- Any harm the child is suffering or is at risk of suffering
- Which of the people applying will be best able to meet the needs of the child? This will include looking their relationship with the child as well as practical considerations like their work commitments

Additional information

- The holder of the order does not have the right to change the surname of the children
- The holder of the order cannot travel outside of the country with the child for more than a month without the written consent of all those with parental responsibility or the permission of the court.

For more information

Family Rights Group: is an organisation which provides free telephone and email advice to family members who are involved with the local authority on the care and protection of their children.

- Contact FRG's advice line for further advice, on 0808 801 0366. It is open Monday-Friday 10am-3.30pm
- You can also email to advice@frg.org.uk
- You can also visit www.frg.org.uk/advice_sheets.html where you can download our detailed advice sheets