

Children and Divorce

What should I do before I start a petition?

Read leaflets D183 (About divorce) and D184 (I want to get a divorce - what do I do?).

Will the court be concerned with all the children of the marriage?

No, only those who still need your care and financial support because of their age and circumstances.

You will have to name all living children of the family, no matter how old they are, when you fill in paragraph 4 of your petition. See leaflet D184 (I want to get a divorce - what do I do?).

The court will be concerned with any child who was born to you and the respondent, or who has been treated by you as though they had been born to you, who is:

- under 16; or
- between 16 and 18 and still at college or school full time.

These children are referred to as “children of the family”.

This includes children you have both adopted. It does not include foster children.

Why do I have to give the court details about the children?

The court must consider the arrangements you propose for the children after the divorce. In exceptional circumstances it can hold up the final decree (the “decree absolute”) until satisfactory arrangements are made for them.

What will the court want to know?

The court will want to know:

- where they live;
- who they live with;
- whether the other parent will see them and how often;
- about their day-to-day care;
- about their health;
- where they will go to school;
- what financial support they will receive; and
- that any special arrangements to help or protect them have been made.

Does this mean I must ask the court to make orders about all these things?

No. It is better if you, the respondent (and the children if they are old enough to understand) can agree these things together without the court having to make an order (referred to as “exercising its powers under the Children Act 1989”).

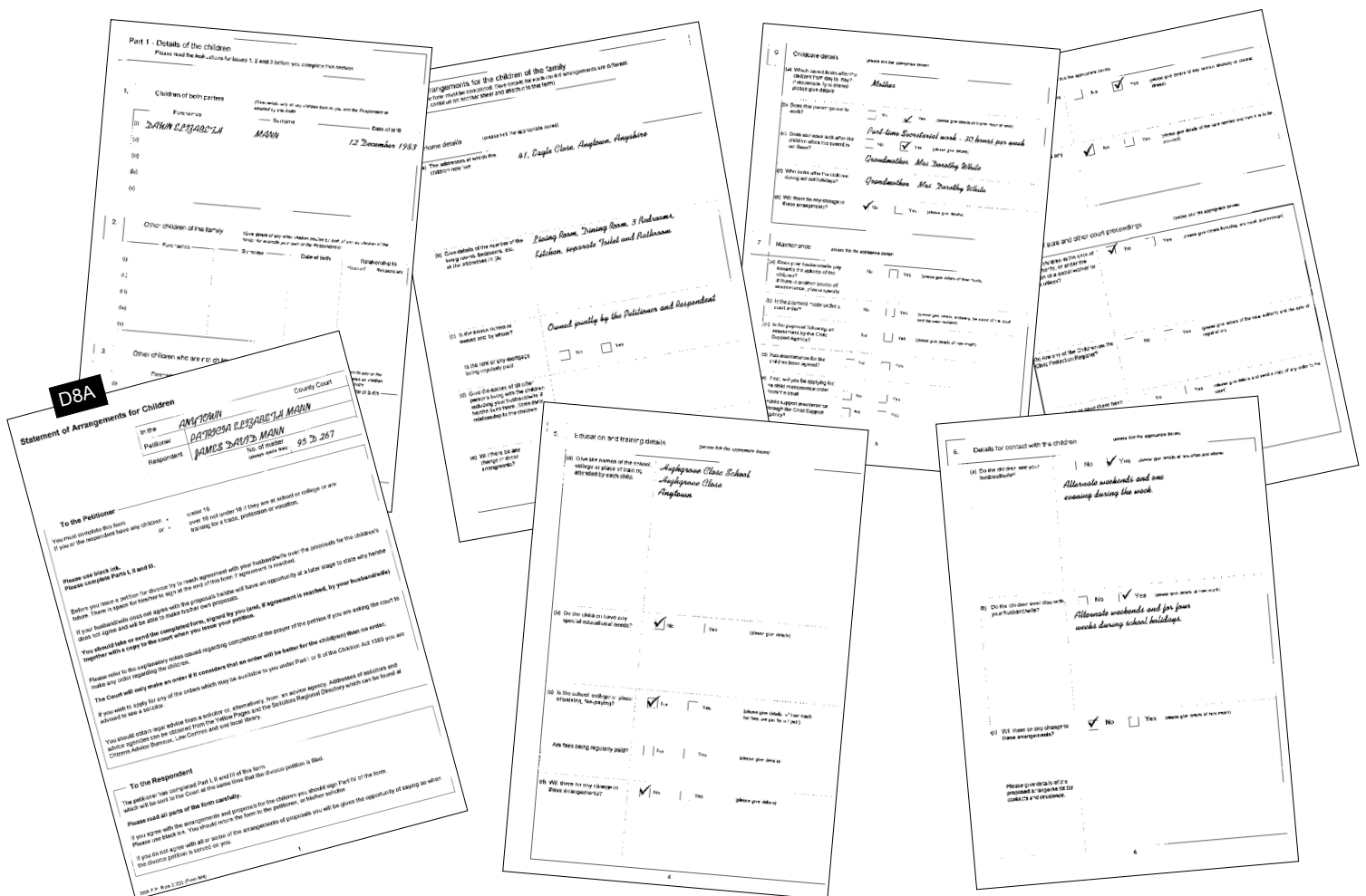
Whether or not you and the respondent agree about the children the court will only make an order about them if it would be better for the children than making no order at all.

How will I tell the court about the arrangements proposed for the children?

When you start your divorce you must fill in form D8A (statement of arrangements for children) which sets out the proposals you are making.

The example below shows parts of a completed form to help you.

You will see that the respondent can also sign the form D8A to show that he or she agrees with what you propose.



What kind of orders can the court make?

The most common types of order are orders for financial support and “section 8” orders.

There are different types of section 8 orders:

- “residence orders” which say who the children should live with.
- “contact orders” which say who the children are allowed to see, or receive letters or telephone calls from.
- “prohibited steps orders” prevent a child’s parents, or any other named person, from taking certain steps, such as taking a child abroad without first getting the court’s permission.
- “specific issues orders” set out precisely how a particular matter about the children should be handled such as their schooling.

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.

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<p>In the ANYTOWN County Court</p> <p>No of matter 95 D 267 Sols ref. _____</p> <p>Between PETRUCIA ELIZABETH MANN and JAMES DAVID MANN and _____ Respondent Sols ref. _____ Co-respondent _____</p>	<p>No of matter _____ Sols ref. _____ Petitioner Sols ref. _____ Respondent Sols ref. _____ Co-respondent _____</p>
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Notice of directions about the children FP Rule 2.39(3)

Take notice that

Direction to attend before the Court

The Court directs that for the following child(ren)

DAVID ELIZABETH MANN

(the petitioner) (the respondent)

—(the following person(s) who appear to have care of the child(ren))

shall attend on 23 March 1995
at 10.30 am/pm
before the Court sitting at
Sanctuary House, 12 Church Road, Anytown ANZ 40X

When the Court will consider the proposed arrangements for the child(ren) of the family.

Direction to prepare a welfare report

The Court directs that for the following child(ren)

a welfare report on the child(ren) shall be prepared by _____

* The welfare officer will contact you in due course.
When the report has been prepared a copy will be sent to the Court.
The Court will tell you or your solicitor how to obtain a copy.

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<p>In the County Court</p> <p>No of matter _____ Sols ref. _____ Petitioner Sols ref. _____ Respondent Sols ref. _____ Co-respondent _____</p>	<p>No of matter _____ Sols ref. _____ Petitioner Sols ref. _____ Respondent Sols ref. _____ Co-respondent _____</p>
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Notice of directions about the children FP Rule 2.39(3)

Take notice that

Direction to file further evidence

The Court directs that for the following child(ren)

(the petitioner) (the respondent)

(the following person(s) who appear to have care of the child(ren))

shall file further evidence relating to the arrangements for the child(ren).
The evidence shall deal with the following matters:

Other direction(s)

The Court directs that for the following child(ren)

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Where do I apply for financial support?

When you are asking for financial support for a child which is not for a single (lump sum) payment, you should apply to the Child Support Agency

In almost every other case, including where the respondent is the stepfather of the child, you should make an application to the court. Court staff will tell you if this is not the case.

A leaflet about the Child Support Agency is available from any court office. The leaflet will tell you how to make an application.