



Foreward by Chris Atkins

I was given a five year sentence for tax fraud in July 2016, which meant I would serve 2.5 years in custody. While I've managed to survive the experience relatively unscathed

(indeed my friends agree that it's made me a better person), there's no question that it's had a lasting impact on my son Kit, who was just four when I went away. I'd split up with his mother, Lottie, a couple of years before, but we'd remained on good terms and he'd spend half the week with each of us. After I was sent down, he had to live with his mother full-time, and she worked tirelessly to keep the father/son bond alive.

The biggest problem was the miserly visits allowance. I was initially a "standard" level prisoner, and therefore only allowed two one hour visits a month. I soon learned that the only way to increase contact with my son was to become an "enhanced" level prisoner. So I went on a mission to suck up to the officers to improve my chances. A kindly senior officer took pity on me, and made me enhanced after just a few weeks. This meant I was allowed four visits a month with Kit, which made a huge difference.

Thankfully, Kit was too young to be traumatised by the scary, authoritarian, nature of the prison environment. He just saw Wandsworth as the place where Daddy lived, and really enjoyed coming to see me. Some families decide to conceal the reality of where the parent is, and pretend that their father has gone travelling abroad, but we decided to be honest with him. I'm very glad of this now, as, at some point, the child will find out and realise they've been misled.

After a few months I discovered that the prison ran "Family Days". These were five hours long, we didn't have to wear the horrible yellow bibs and we could play with our kids properly. These were fantastic, but it took me ages to work out how to get on the list and secure a place.

Phone calls were also a big challenge. In my first month inside I was on "23 hour bang up", which meant I was only allowed out the cell for an hour each day to make a phone call, which was often when Kit was at nursery. Things became easier as I started doing an increasing number of prison jobs, which allowed me out of my cell much more, so I could speak to him twice a day. The rates for calling mobiles were extortionate and would eat up a lot of the money I was allowed to spend each week. Lottie installed a landline, which helped a lot. She even got a special phone just for Kit, so when it rang he knew it was Daddy calling.

Kit learned to read while I was in Wandsworth so I wrote to him constantly. I also whiled away the hours writing stories for him. I swapped favours with artistically gifted inmates who would draw intricate animal characters, and I'd then write stories around them. He's still got all of these in a shoebox in his room.

After nine months in Wandsworth I got shipped to Ford open prison, and life got a lot easier. The visits were much longer and more relaxed. The only disadvantage was that Ford was a significant distance outside London, so it was harder for Lottie to travel to. But she still brought in Kit religiously every week. I also discovered the excellent charity Storybook Dads. They record inmates reading stories, add sound effects and music, and burn it all to a CD and send them to the prisoner's children. I did two while I was in Ford. Kit loved the CDs and still plays them in the car.

Now I'm out I can see the damage the separation has caused my son, and the scars will probably never heal entirely. But thanks to Lottie we maintained contact throughout my sentence, and Kit and I are now closer than ever. A prison sentence doesn't mean a family has to fall apart, and it's worth all of the work, heartache and upheaval to keep parental relationships alive.

Chris Atkins is a film-maker and author. His bestselling book about his time in Wandsworth is called A Bit of a Stretch.

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INTRODUCTION

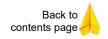
Prisoners' Advice Service (PAS) provides free legal advice, information and representation to adult prisoners in England and Wales on the application of the Prison Rules 1999 and related law. Our remit is confined to legal matters arising out of imprisonment, such as categorisation, transfers, segregation, parole and adjudications.

With this guide, however, we have departed from our normal practice. We wanted to respond to the number of queries we routinely receive from male prisoners unable to access free help in understanding their options when they want to have contact with their child and/or remain involved in their child's life. PAS has not expanded its remit to include family law in the male estate, so we were delighted to have family law expert, Rose Harvey-Sullivan, barrister at 7 Bedford Row in London, author this guide.

Whilst PAS cannot advise on matters of family law for male prisoners, we send this guide free of charge to prisoners requesting help with contact arrangements with their child. We are also happy to send any necessary forms requested.

We know that this guide cannot answer the myriad of queries that fathers in prison may have, but we hope that for those wanting to establish, or maintain, contact with their child, this guide provides the legal information required to help navigate what can too often be a very challenging process.

Please note that Rose Harvey-Sullivan is unable to respond to individual, direct requests for assistance.



ABOUT THIS GUIDE

SUMMARY

Being in prison **does not** mean you cannot be a parent or that you should not be involved in your child's life.

Being in prison does not mean you lose your parental responsibility for a child.

You can apply to the court to help you take part in your child's life, but should only do this as a last resort.

If you want to see your child, have telephone/video calls with them or write to them, but are being stopped from doing so, you can make an application for a Child Arrangements Order ('CAO').

This guide provides information on how to attempt to arrange contact with your child and **sets out the law** that the court uses to decide on applications about contact and your involvement with your child. It takes you through the practical steps involved in making an application yourself. Please note that such action should be a last resort.

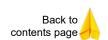
This guide contains **general legal information**. It is **not** legal advice, as everyone's situation will be different.

This guide covers three main types of applications:

- a. The most common application fathers in prison want to make is an application to have contact or visits with their child (this is also called 'having contact' with you). You do this by making an application for a 'child arrangements order' ('CAO').
- b. You can also make applications about important decisions regarding your child, like which school your child goes to, or what name your child is known by, if you disagree with their carer about these things. These are applications for a 'Specific Issue Order' ('SIO').
- c. You can also ask the court to make an order that stops someone from doing certain things, like taking the child to live in another country. These are applications for a 'Prohibited Steps Order' ('PSO').

These three types of orders are sometimes called 'section 8 orders', named after the section of the Children Act that they are covered by. This guide will call them 'section 8 orders'.

The Children Act 1989 is the legal Act of Parliament that allows people to make these applications to the court.



WHO CAN HELP YOU IN PRISON

Every prison should have a Family Engagement or Support Worker, or someone who can help with family matters. They provide support to prisoners, as well as support to their families. They try to ensure that prisoner, child, parents, carers and other relatives have access to appropriate advice, guidance, learning opportunities, care and practical support to better enable them to maintain or enhance positive family relationships. They can help with a variety of family related matters, such as facilitating prison visits, particularly ones involving a child, delivering family induction sessions and mediating between family members to arrange contact with a child.

Family Engagement / Support Workers are provided by an external third-party organisation or employed directly by the prison; the latter is generally the only case in private prisons. Organisations that provide this service across the prison estate include: Barnardo's; Jigsaw; Lincolnshire Action Trust (LAT); NEPACS; Ormiston Families; Partners of Prisoners & Families Support Group (POPS); Spurgeons; and Prison Advice and Care Trust (PACT). PACT provide the majority of family workers across the estate.

You can see the Family Engagement /Support workder by submitting a general application (app) and asking for an appointment.

Prisoners' Advice Service (PAS) can provide copies of the forms mentioned in this guide. We cannot provide family law advice to male prisoners.

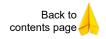
Samaritans can provide emotional support if you need a safe place to talk.

The **Chaplaincy** can provide emotional support and someone to talk to about your problems.

A Peer Mentor may be able to help you and your loved ones talk through any issues.

The **Mental Health In-Reach Team** are available if you feel you are being affected by any issues in relation to your family.

Speak to a **Custody Officer** if you feel overwhelmed and need support immediately.



AVOIDING COURT

Court can be stressful and upsetting. It can create arguments and mean that people fall out. A court may also be unwilling to get involved with the issues in dispute. If possible, it is better to avoid a court hearing. The court will appreciate the efforts you have made to make arrangements yourself. How can you avoid court?

Is this a decision the court would get involved with?

There will be some day-to-day decisions that you cannot control, for example what time your child goes to bed, how they get their hair cut, or whether they play with certain friends on their street. These are decisions that your child's carer is allowed to make alone.

A court will not get involved in making decisions like this.

Try speaking or writing to the other parent or carer

You **might not need to go to court** if you can come to an **agreement** with your child's carer about contact with you, or about the decisions that are being made about your child. The court will not make an order if it is not needed, so you should not apply just to get something formal or enforceable.

It is helpful to write down the agreement, so that, if you disagree later on, you can refer back to it. This may help too if you end up in court at a later date.

If you have arrived at prison without any plan for contact with your child – for example, if you have not agreed with their mother or carer that the child can come and visit you or speak to you on the phone – you should speak to a member of staff to make an urgent phone call and try to agree a plan. Each prison should have one or more specific staff members, often called family engagement workers, who can normally help with issues like this, but won't be able to see you urgently.

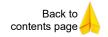
You should think about whether you can **compromise** to reach an agreement. This usually means people on both sides giving up some of their demands to meet in the middle.

EXAMPLE

You and your child's mother are separated. You are Muslim. Your child is living with their mother, who is Christian. She wants to take your child to Christian Sunday School but not Islamic Sunday School. You want your child to understand your faith too; you would prefer them to go to Islamic Sunday School.

You could try and reach a compromise with your child's mother by suggesting your child goes to Christian Sunday School every other week and Islamic Sunday School every other week, or that they go to neither weekend school.

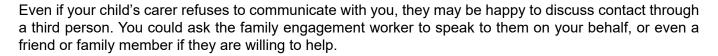
This is not a perfect outcome for you or for your child's mother but it is important to understand both points of view and think about what this might feel like for your child. You should try and reach an agreement, so that things are not difficult or unpleasant for your child.



If your child's carer visits you with the child, try not to bring up difficult topics in front of the child. This might make them feel upset, worried or confused. It is best to speak to the other carer alone, so that you can be open and clear about any problems.

If it is difficult to discuss an issue with your child's carer when you see them during a visit (maybe because your child is also there and you do not want to upset them), or, if they do not visit you, you should consider calling them or writing them a letter to politely explain your worries. You can ask them to write back to you explaining their point of view. If your prison has a family engagement worker, you can ask them to help you with this if you need support.

- Remember to keep any letter clear.
- Try not to fall out with your child's carer, as this will make it more difficult to agree on things involving
- your child



You might not have your child's carer's contact details. If this is the case, you can try asking a family member or friend to find them for you. You may have to make an application to court for contact if you still cannot obtain them; the court can usually locate your child's carer.

You may be prohibited from contacting your child's carer by a court order, such as a Non-Molestation Order (an order made by the family court) or a Restraining Order (an order made by the criminal court). Some orders prevent all contact, including indirect contact through a third party. You must make sure that there is no order in place before trying to make contact, as breaching either order is a criminal offence and can attract a maximum of five years in prison if convicted. If you have a court order, you must check the conditions to see what contact is allowed.

Contact, including indirect contact, may also be prohibited by the prison – for example, if the victim of your offence is the carer of the child. If this is the case, you may be able to challenge the restriction using the internal prison complaints process first. More information about Public Protection Restrictions can be found on page 11. You can call PAS for legal advice on this issue as it is a prison law matter.

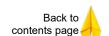
Get all the information

It is important to get all the necessary information before you make an application to the court: there might be a good reason that you do not know yet, which explains why the child's parent or carer wants to do things a certain way.

EXAMPLE

Your child has moved to live with their auntie, who now wants them to change school. You think your child's current school is very good and don't want them to move.

You ask a family member for more information and they explain that, actually, the auntie has a new job on the other side of town and it would be difficult for her to drop your child off and pick them up on time if they stay at their current school. The new school has a really good reputation too. It is also the school that the auntie's own children go to and your child has said they would like to go to school with their cousins.



This new information helps you to understand that there are some good reasons for your child to go to a new school and persuades you that it is best for your child to move. This means you do not need to make an application to the court asking them to stop the auntie moving your child.

Mediation

Usually, when a person makes one of the applications to the court covered in this guide, they must do mediation before they are given a court hearing.

Mediation involves you and your child's carer meeting with a third person, called a mediator. The mediator helps you both to understand the other person's point of view, and tries to help you reach an agreement so that you do not have to go to court.

As a prisoner, you do not have to do mediation - you are exempt. If you make an application, you can tick the box in section 3e of the C100 form to say you are in prison and so you cannot do mediation.

Before making an application to court you need to check whether the family court is the right place to resolve the issue(s) you have. The flowchart at the end of this guide at Annex A can help you do this.



SUMMARY

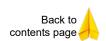
Make sure you only contact your child's carer if you are allowed to. You must check.

Try to understand **why** your child's carer has done things a particular way – there might be a good explanation.

Be friendly and polite with your child's carer – maybe you can sort things out between you if you communicate properly. Try asking them to visit you on their own, so that you can discuss contact without the child being there too.

Write a letter to your child's carer, politely setting out what you want and why you want it – maybe they don't understand your point of view yet.

Mediation – get a friend, family member or professional to help you and your child's carer to work out the problem.



PARENTAL RESPONSIBILITY

To make an application for a section 8 order, you must have either i) parental responsibility ('PR') for the child, or ii) permission from the court to make the application.

What is parental responsibility?

PR covers 'all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and their property'.¹

Basically, having PR means (i) you have a duty to care for your child and meet their needs, and (ii) you also have all the legal rights and powers given to a parent to make important decisions about that child. It means you are legally considered a full parent.

THINGS TO KNOW ABOUT PARENTAL RESPONSIBILITY

You do not need to be a birth parent of a child to have or get PR.

More than two people can have PR for a child e.g. mother, father, step-father, and grand-mother could all have PR.

You might already have PR for your child from before you went to prison. Being in prison does not end your PR. You still have all the same rights you had before.

If you already have PR, you don't need to make an application for it, just because you are now in prison.

If you have PR, the child's carer should not take any important decisions without consulting you.

How does a father get PR?

A birth mother automatically has PR for her child. Things are not always as straightforward for fathers. If you are married to, or in a civil partnership with, the child's mother at the time of the child's birth, you will **automatically** have PR.

If you have adopted a child, you will have PR.

If you were not married to, or in a civil partnership, with the child's mother at the time of the child's birth, there are five ways to get PR:

You are the biological father of the child and you marry the mother later on. You have PR from the date of the marriage.

You are named on the birth certificate as the father.

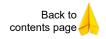
You enter into a 'parental responsibility agreement' with the mother.

You get a 'parental responsibility order' from a court, or a CAO (child arrangements order) that says the child lives with you.

You are made a Special Guardian for the child.

Being named on the birth certificate as the father

This can only be done if you are the biological father to the child. You can get birth certificates at different times in a child's life.



¹ Section 3 Children Act 1989

Registering the birth

If you were named on the birth certificate at the time of the birth (and it was after 1st December 2003), then you automatically have PR, regardless of whether you were married to/in a civil partnership with the mother or not.

Re-registering the birth

Re-registering the birth is very difficult to do from prison because you have to fill in forms before an authorised person, or take it to the registry office in person, so we do not set out how to do it here.

Declaration of parentage

If there has been a court hearing about the biological father of the child being named on the birth certificate and the court decided that you are the biological father of the child, the court will tell the General Register Office and the birth will be re-registered. This is called a Declaration of Parentage.

Getting the new birth certificate

The registry office does not automatically issue a new birth certificate. If you want a new birth certificate that names you, you must order one.

Parental Responsibility Agreements

If you aren't on the child's birth certificate and the child's mother agrees that you should have PR, you can jointly fill in a parental responsibility agreement. This can be done whether you are the biological parent or a step-parent. Again, though, the forms have to be signed in front of an approved person, so it will probably be very difficult to do this from prison.

Applying to the court for PR

If none of the above options describes your situation, you can apply to the court for PR. You can do this at the same time as applying for a section 8 order. In fact, it is best to do so.

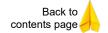
This can be done, regardless of whether you are a birth parent or step-parent. As of February 2021, this costs £215. (If you have no income, and little or no savings, you can apply for an exemption or reduction in the fee using form EX160.) PAS can send you a copy of this form and linked guidance.

The broad process is:

- You must fill in a C1 form. (You can ask PAS to send you a copy of this form.)
- You must give your reasons for applying for the order.
- The court will consider:
 - your commitment to the child;
 - o the child's attachment to you (are you close to the child?);
 - o your reasons for making the application.

EXAMPLES

I am applying for PR for my two children. The reason for this is that I want to make an application for a CAO so that I can spend time with them, as their mother is not letting them come and see me in prison. Their mother and I were together for six years and lived together but we never married and she did not put my name on their birth certificates. The children know I am their dad and we have a close bond. I think it is good for my children to have two parents legally.



OR

I am applying for PR for my step-son. I have two younger biological children with my step-son's mother, half-siblings to my step-son. I already have PR for both these children because I am named on their birth certificates. I met my step-son's mother when he was 1 year old and we lived together for five years before I was sent to prison. He calls me 'daddy' and I treat him like my own son. He has no contact with his birth father. His mother agrees to this application. She and I cannot make a PR agreement because I am not able to go to a court building to sign the forms with an official witness: I am serving a two-year sentence at HMP Wandsworth.

If the court thinks it is in the child's best interests for you to have PR, it will make an order granting this. It will help to read the section below about a child's 'best interests' and the 'welfare checklist' at page

You may need to provide further evidence of the facts you have set out in your application e.g. by writing a witness statement or sending the court copies of any documents you have mentioned.

REMEMBER...



If you are applying for PR so that you can make an application for another type of order e.g. a CAO, it is best to make both applications at the same time. The court will usually then deal with them together, which speeds up the process.

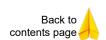
SUMMARY - PARENTAL RESPONSIBILITY

If you want to play a part in your child's life, you should make sure you have or get parental responsibility ('PR') for them.

There are a few ways to get PR if you don't already have it – see above.

To make this application, you need a C1 form. You might have to pay for the application, but you can try to get an exemption, using form EX160.

You should explain to the court why it would be good for your child that you be involved in their life.



APPLICATIONS TO COURT FOR A SECTION 8 ORDER – THINGS TO KNOW

There are two important things the court must think about when it considers an application for a section 8 order:

- a) The welfare checklist.
- b) That both parents should be involved with their child if possible.

The welfare checklist

In the family court, **the most important thing to think about is the child's welfare**. This means that the court must make decisions that are in the **child's best interests** ² i.e. they must make the decision which they think is best for the child. This is called **'the welfare principle'**.

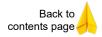
The court will use 'the welfare checklist'. This is a list of things the court must think about:

- The wishes and feelings of the child concerned (considered in the light of their age and understanding): usually the court will ask a children's officer a CAFCASS officer, based at court, (CAFCASS stands for Children and Family Court Advisory and Support Service), sometimes called a guardian to speak to the child to ask them what they want to do. The court doesn't rely on what one parent says. The court takes the child's view into account but does not have to follow what the child says they want. The older the child, the more likely it is that the court will follow their views.
- The child's physical, emotional and educational needs: physical needs include whether the child is being properly fed and is clean. Emotional needs include things like being treated kindly and with love. Educational needs include getting the child to school.
- The likely effect on the child of any change to their circumstances: the court will think about what effect visiting you in prison, or being known by a different name, or living somewhere else, will have on the child.
- The child's age, sex, background and any other factors that the court considers relevant (for instance if the child has a disability); the court also thinks about the child's culture and religion if applicable.
- · Any harm that the child has suffered or is at risk of suffering.
- How capable each of the parents are (and any other relevant adult e.g. someone who supports
 a parent in caring for the child) in terms of meeting the child's needs. For example, if you ask for
 contact with your child, the court will think about whether you can show your child love and affection if
 they visit you (meeting their 'emotional needs').
- The range of powers available to the court³; this means the judge has to think about all the different options and orders it could choose before they make a decision.

This list is **very important** and you should use it when you are writing documents for the court – it will help you make sure you have not forgotten to mention anything important.

Both parents should be involved with their child if possible

The court starts with a presumption that it is in the child's 'best interests' to have both parents involved in



² Section 1(1) Children Act 1989

³ Section 1(3) Children Act 1989

their life in some way. That means the court must assume it is **good** for your child to have a relationship with you and for you to be involved in big decisions about your child, unless this is **proven not to be true**⁴. This **includes situations where one parent is in prison**. However, being in prison or having a criminal conviction **does not** automatically mean that the court will think contact with you would be bad for your child.

It is important to know that the family court is not there to blame one parent or the other, or to punish parents for mistakes they may have made in the past.

Sometimes, the court has to hear evidence on things that might have happened in the past, so they can understand whether it would be safe and/or good for the child to see their parent. However, **unless it affects the child**, the court is not interested in reasons why parents may have fallen out with each other.

If there is evidence that you being in your child's life would put them at risk of harm, the court might decide you should not have contact with them. One example of this might be if you are in prison for child-related offences. This does not automatically prevent you from having contact with your child but it will be a very important factor for the family court to consider.

Being involved in your child's life does not necessarily mean you must have face-to-face contact. It might mean that the court decides it is best that you send letters, cards or have phone or video calls with your child, but that they should not come into prison to see you.

The court will think about all of these different options when working out what form of contact is best for your child.

Contact may not be ordered

Making an application to the family court for contact does not mean that the court will definitely order that you can have contact with your child. It is possible for you to follow all the steps in this guide but not receive a positive outcome. Each case is different and the court will make a decision based on what is in the best interests of that particular child.

Public protection restrictions

Prisons have a responsibility to safeguard and promote the welfare of any child who has contact with a prisoner. As part of this, all prisoners who are convicted of certain offences must immediately be assessed to decide if they pose a continuing risk to a child whilst in custody and what, if any, contact with the child should be allowed.

If a prisoner is restricted in the contact they are allowed with their child for these reasons, these are called public protection restrictions.

If public protection restrictions are imposed on you because you are deemed to pose a continuing risk to your child, but you still want to have contact with them, then you must **FIRST** make an application to your prison and **NOT TO THE COURT**. Usually, you are only allowed to apply for contact with a child in your immediate family. The prison must ask the child's carer if they support contact, and the prison can only allow contact if they do. If they do not, then your request for contact will be refused.

If you still want contact, you will then need to make an application to the family court. The court will consider the prison's risk assessment when it decides your application.



Unfortunately, the Family Court cannot force a prison governor to comply with an order that it makes, but if the prison does not follow an order for contact, you may be able to legally challenge the decision through a court process called Judicial Review. Equally, it is sometimes possible to challenge public protection restrictions where a family order is not in place. As this is a prison law matter you can contact PAS for advice by either calling the advice line or writing to us.

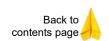
SUMMARY

The court will think about your child's welfare and what is in the child's best interests. This means that they think about:

- what the child wants:
- what the parents/carers want;
- whether the parent/carer can safely care for the child;
- the child's physical needs and emotional needs;
- the child's education;
- how change might affect the child;
- whether the child has extra needs or a disability;
- whether the child has suffered any harm, and what effect it has had on them.

The court's starting point is that it is a good thing for both parents to be involved with the child if possible, including if one parent is in prison.

The prison may impose restrictions on your contact with children. This is a prison law issue and you can conact PAS for advice.



CHILD ARRANGEMENTS ORDERS

A child arrangements order ('CAO') is an order that sets out:

- 1. Who your child lives with;
- 2. Who your child will have contact with, how that contact will take place and how much time can be spent with them.

You can ask the court to decide whether you should have contact with your child, and, if it decides you should, when and in what way this contact should happen.

If you had a CAO in place before you went to prison, it is technically still active. However, your change in circumstances will mean that there might have to be changes to the times and ways you have contact with your child. If that is the case, you can apply for a **variation** to the current CAO, unless you can agree a variation with your child's carer informally instead. Different arrangements to those in the order do not need to be approved by the court.

Who can apply for a CAO?

- The child's mother;
- The child's father;
- Anyone who has PR for the child;
- Anyone who has been living with the child for three out of the last five years;
- A foster carer or relative that the child has lived with for at least one year immediately before the application is made;
- A step-parent who has treated the child as part of the family;
- The court can also give permission to anyone else to make an application, such as a grand parent.

EXAMPLES

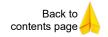
Your ex-partner has stopped bringing your child to see you in prison and you have tried to speak and write to them to sort it out but it hasn't worked. You would like the court to make an order saying that your child should have contact with you. You are named on your child's birth certificate as their father. You **DO NOT** need permission from the court to make an application for a CAO.

OR

You want to make an application to have video or telephone contact with your ex-partner's child whilst you are in prison. You do not have PR for them, but you lived with them for two years and think of them as your own child. You **DO** need the court's permission to make an application for a CAO. The court will probably give you permission to make the application because you were close to the child.

OR

Your child has lived with their uncle since you went to prison 18 months ago. The uncle **DOES NOT** need the court's permission to make an application for a CAO that confirms your child lives with him, because your child has lived there for more than one year.



How do you make an application?

To apply to court for a CAO, you must fill in a C100 form. PAS can send you a copy of this form upon request. You should send it to the court building that is closest to where your child lives.

If you have a CAO in place already and you need to change it because you are now in prison, you should use the same C100 form and refer to the CAO you are asking the court to change at section 7 of this form. If you have the case number for your old CAO, and/or a copy of the order itself, this will be very helpful for the court. You should attach a copy of the order to your application. If not, you should give as much detail as possible, e.g. which court made the order and when it was made, so that the court can find a copy of it. Remember the welfare checklist when you write down your reasons for wanting the order.

Remember to tell the court that you are in prison (you can include this at section 9 of the C100 form). Special arrangements will need to be made to ensure you are able to attend the hearing either in person or by video link or telephone. The court will need to make a Production Order to ensure that the prison knows that they need to produce you for the hearing.

What happens next?

The court will ask you and the child's carer to come to a hearing on a planned date. There is likely to be more than one hearing if agreement cannot be reached at court. (See p. 21 for more details on family court hearings.)

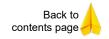
What type of contact might the court order?

There are different types of contact the court might order:

- **Direct contact** as you are in prison, this will be visits from your child;
- **Supervised contact** this would be a visit from your child but with someone else supervising e.g. a professional or a family member or friend;
- **Supported contact** this would be a visit from your child but with another person there (not carefully supervising);
- **Indirect contact** this can include phone calls, letters or cards, or even artwork your child has made (this kind of contact can also be supervised/monitored).

When a court orders indirect contact, it will not order that your child must write to you. It can, however, order that the child's carer must send any letters the child writes to you in prison. Indeed, the child's carer should encourage them to engage with you if they can.

If you have not seen your child for a long time, the court might order that you start with indirect contact, before slowly building up to more contact, for example in-person visits, after your child has become used to being in contact with you again. The court will want to see how your child responds to the contact first. It will want everyone to move at the child's pace and will not rush them if it would not be good for them to do so. You could ask the court if they can order Purple Visits (video calls) between you and your child. If your prison is working with Storybook Dads (see Useful Contacts section at the end of this guide), you might also be able to record yourself reading a story for your child, or write a storybook to send to them. You should ask the prison family engagement worker or the prison librarian if this is possible.



What does a CAO mean for holidays?

When the court makes an order about your contact with your child, they will usually also make an order about who the child lives with.

Once someone has a CAO that says a child lives with them, they are allowed to take the child out of the UK for up to 28 days without getting your consent first.

You could ask the court to order that the child's carer must inform you of any holiday, and give you details about where they are going and for how long.

If the trip would affect the time that the court has ordered that you will spend with your child, the carer must get your agreement for this.

EXAMPLE

The court has made an order that your child will live with their mother and see you once per month in a prison visit. Their mother wants to take them to Disneyland for two weeks. This would mean they miss their visit to you. Their mother must ask for your agreement to go at this time, since it affects your contact.

If their mother plans the trip for a time when it **does NOT affect** your contact with your child, then **she does NOT need your permission.**

What does a CAO mean for PR?

If the CAO specifies who the child lives with, this person will be granted PR if they did not have it already. This does NOT mean you lose your PR.

EXAMPLE

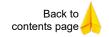
You are named on your child's birth certificate and so you have PR for them. They live with their grandmother. Their grandmother applied for a CAO saying your child lives with her. This was granted by the court.

The court should also make an order giving the grandmother PR for the child. You still keep your PR as well, as does anyone else who has it.

A CAO is not the same as a **special guardianship order ('SGO'):** SGOs allow for a child to be placed with a friend or family member on a long-term basis. The person who is appointed as the child's special guardian is given overriding PR and is the child's permanent carer.

How long does a CAO last?

Unless the order says anything different, any order regarding **contact** will last until the child is 16. Any order regarding **where the child will live** lasts until the child is **18.** If you are released before your child turns 16/18, you could reapply to the court for a change to a CAO, once things are different for you. It is unusual for a court to make a new CAO in respect of a child who is aged 17-18.



Can I apply to change an order?

There may already be a family court order for contact in place when you come to prison, but it is not working for one or more of the parents or carers. This can be because the restrictions of the prison regime make it impossible to meet the conditions of the order. You can apply to the court to 'vary' the order. This means the court will reconsider the contact that has been ordered. It is important to remember that the court may decide that less frequent contact, contact of a different type or no contact is now in the best interests of the child.

The process to apply to vary a CAO is the same as making an application in the first place. You should follow the process outlined on page 14, using a C100 form.

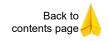
SUMMARY

If you are the child's dad, step-dad, or you have PR, you can definitely make an application for contact. Certain other people are allowed to make applications too.

Use a C100 form to make your application (you can use an EX160 form to apply for an exemption from the court fee).

Write down what kind of contact you would like, e.g. face-to-face contact, or weekly telephone contact, and why it would be good for the child to get to see you or speak to you in video/phone calls. Try and use the welfare checklist on page 10 when you do this.

Orders for contact usually last until the child is 16.



SPECIFIC ISSUE ORDERS AND PROHIBITED STEPS ORDERS

The person caring for and living with your child will have to make decisions for them and about their life. They do not have to speak to you about smaller, everyday decisions, like how your child gets their hair cut.

However, they should involve you in bigger decisions. For example:

- Your child's name what first or surname your child is known by;
- Your child's education for example which school they should go to;
- Your child's health for example whether they should have vaccinations or not;
- Your child's religion for example wjat religion, if any, they practise;
- Where your child should live for example if the person caring for them wants to move with the child to another country or relocate within the UK.

Specific issue orders

If you cannot agree on these bigger decisions, then anyone with PR or anyone caring for your child can make an application to the court to ask them to make the decision instead. This will be put in a specific issue order ('SIO').

EXAMPLE

Your child is living with their grandma, who wants them to move to another school. You do not want them to change schools, as they have lots of friends at school and they are doing well there. You have spoken to your child's grandma and you cannot agree. You do not think there is a good reason to move the child to another school. You can make an application to the court for an SIO about which school your child should go to.

Prohibited steps orders

A prohibited steps order ('PSO') is an order that stops someone from doing something specific. So, if you cannot agree with the person caring for your child about a big decision, and they just go ahead with their plan without agreeing it with you first, you can apply for a PSO to stop them.

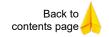
EXAMPLE

Your ex-partner wants to move with your child to another country. This would mean you will not get to see your child very often. You would like them to stay in the UK. You have been told your ex-partner has accepted a job in the new country and has put her house up for sale. You can apply to the court asking for a PSO to stop her from moving with your child to the new country.

How do you apply for a Specific Issue or Prohibited Steps Order?

You should fill in a C100 form. You can do this at the same time as making an application for contact, if you are making one.

If it is an emergency, e.g. you think your ex-partner is going to do something serious very soon and you want the court to stop them, you must tell the court on the form that the situation is urgent and ask them to hold the hearing urgently.



If there is an emergency, you can also ask the court to make an order without the other person being told that a hearing is happening. The court will only do this if they think that telling the other person about it before they make an order would put the child at risk. They will then have another hearing with the other person there as soon as possible, so that they can hear from both sides.

Remember you should use the welfare checklist when you write down your reasons for wanting the order.

Tell the court on the form that you are in prison, so that they are aware that special arrangements need to be made for you to attend the hearing, either in person or by video link or telephone.

How does the court decide?

The court will hold hearings to plan how it should make its decision. See page 21 for information about family court hearings.

The court will decide what is in your child's best interests. It will use the welfare checklist to make any decision about any section 8 order – whether an SIO or a PSO.

How long does an order last?

An SIO or PSO lasts until your child is 16 years old, or until the court ends the order. As with CAOs, you can apply to the court to end either of these orders if things have changed for you and/or your child, e.g. if the order is not needed any more.

SUMMARY

You can ask the court to make a decision about a specific problem or decision involving your child – a specific issue order (SIO).

You can ask the court to stop the child's carer from doing certain things – a prohibited steps order (PSO).

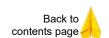
The court can only get involved with certain types of issues, and nothing minor.

Use a C100 form to make your application (you can use an EX160 form to apply for an exemption from the court fee).

Write down what the problem is, and what decision you would like the judge to make.

Explain why it would be good for the child if the judge agrees with you, and decides in your favour. Try and use the welfare checklist from page 10 when you do this.

SIOs and PSOs usually last until the child is 16.



ENFORCEMENT ORDERS

If you already have an order in place and the child's carer does not follow it, you can ask the court for an 'enforcement order'. This means that the other person has to follow the first order. The court can also give that person a punishment for not following the first order. Punishments include:

- · Unpaid work;
- A fine;
- Compensation paid to you;
- A prison sentence (or a suspended prison sentence);
- Moving your child to live with someone else.

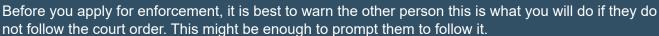
These last two are extreme options and will not be applied unless the carer has failed to follow the court order on multiple occasions with no good reason.

EXAMPLE

You have a CAO that says that you can speak with your child once per week on the phone. The child lives with your ex-partner and she is not letting them speak to you on the phone. You can apply to the court to 'enforce' the CAO. The court might give your ex-partner a punishment like paying a fine, or having to do unpaid work, or not issue a punishment at all if they think your ex-partner has a reasonable explanation for not following the order. They will tell her that she must follow the CAO in future or she might get a more serious punishment next time, unless they think the order needs to be changed to make it more workable.

You must fill in a C79 form to apply for enforcement. PAS can send you a copy of this form upon request. (The current cost to make an application for enforcement is £215. If you have no income, and little or no savings, you can apply for an exemption or reduction in the fee, using form EX160.)

REMEMBER...



If the person has a reasonable explanation for not following the court order, they will not be punished. This will depend on individual circumstances. If the court thinks the other person should be given one more chance to follow the order, they might not take action. You should be aware that often the court will not enforce an order at the first enforcement hearing.



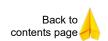
SUMMARY

Carers can be punished for not doing what a family court order says without a good reason.

There are different types of punishments.

You should fill in a C79 form to apply for enforcement. It costs £215. You can apply for an exemption from the court fee with a form EX160.

You should explain how the other person has breached the family court order. You should also write down any suggestions you have for changing the family court order.



COURT HEARINGS

Once you have made your application, the court will invite you and the person caring for your child to a hearing.

REMEMBER...

It is very important to always stay calm and polite at any court hearing. The judge will watch you and the other party and your behaviour will be an important factor in their decision-making.

The court might try and help you and the other party reach an agreement, especially at the first hearing.

If it is not possible to agree, the court will ask you both to write **witness statements**. This is a chance for you to explain why you would like your order to be complied with and to talk about things that are relevant to the court's decision. Again, remember the **welfare checklist** (see page 10), as this is what the court uses to make its decision.

An example of a witness statement, including helpful tips on what to include, can be found at the end of this guide at Annex B.

The court will sometimes appoint a professional, usually a CAFCASS officer, to provide their professional opinion on whether your child should have contact with you and, if so, what kind of contact. The CAFCASS officer should speak to you and to the other party to discuss what you want and why. They should also speak to the child, if the child is old enough to give an opinion. The CAFCASS officer's investigation will include making police checks on both parties, which they will take into account. They will write a report (often referred to as a section 7 report) with a recommendation that they send to you and to the judge. The recommendation will be based on the **welfare checklist** (and the facts of the case) and what would be best for the child.

The court might plan a hearing where you and the other party, plus any witnesses, give evidence; it might also decide that there is enough information to make a decision without hearing this. You can tell the judge whether you think you need to give evidence or not in advance. The judge will take your opinion into account.

Once the judge has enough evidence and you have had the chance to put forward what decision you want the court to make, the judge will make a decision about your application. They must explain why they have made that decision.

SUMMARY

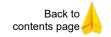
The judge will probably ask a CAFCASS officer to write a report about what would be best for the child.

The CAFCASS officer will talk to you and the child's carer or other parent to understand what you want and why.

The CAFCASS officer will also talk to the child, if the child is old enough.

At the hearing, the judge will ask if you agree with the CAFCASS officer's recommendation and why/ why not.

If not everyone can agree, the court will ask you for a witness statement, and might list the case for a trial to hear what you and the other carer/parent have to say.



APPEALS

As with criminal law, there are very specific situations in which you can appeal against the decision of a family judge or magistrate. Often, you need the court's permission to apply to appeal.

If you are appealing or applying for permission to appeal, you have to do this very quickly: if it is an 'interim' decision or case management decision (i.e. a decision made before the end of the case), you have to apply within seven days. If it is a final decision, you should apply within 21 days. There are situations where you might be given longer but they are not common.

Making an application to appeal is more complicated than making an application in the first place and is outside the scope of this guide. If you are thinking about an appeal, you should ask your prison's family engagement worker for help in finding someone who can give you advice or help with this.



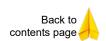
- Remember...
- Even if you are appealing a decision, you must still follow the order until the appeal is decided.

SUMMARY

There are certain situations where you can apply to appeal the decision made by the family court. Often, you need the court's permission.

You should make your application quickly – there are certain time limits:

- If it is a case management decision or decision before the end of the case, you should apply within seven days.
- If it is a final decision at the end of the case, you should apply within 21 days.



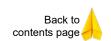
LEGAL AID

Legal aid is public funding to pay for a solicitor to provide you, at no cost to yourself, with legal advice and/ or representation in legal matters. It is available for people who have low incomes and who cannot pay for a solicitor themselves.

Although legal aid is available for section 8 order applications, it is very limited. You can usually only get it if you have been the victim of domestic abuse. You have to provide evidence of this to the Legal Aid Agency and they only accept certain types of evidence. If you think you should be getting legal aid, PAS can send you a list of family law firms that you can contact for help and advice about this. It is the solicitor, and not you, who makes the application for public funding to advise or represent you.

You might also be able to get a solicitor funded by legal aid if you can provide evidence that the child is at risk of abuse by the other person involved in the case. Again, the Legal Aid Agency only accepts certain types of evidence.

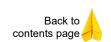
You might also be able to apply to charities who can sometimes find lawyers willing to provide their services for free (this is called 'pro bono'). We have listed some of these at the end of this Guide under 'Useful Contacts'.



LEGAL CORRESPONDENCE

You are allowed to write to a court, lawyer, including family lawyers or PAS without the prison reading your letters under Rule 39 of the Prison Rules 1999. The prison generally cannot interfere with your mail to or from any of these, or from other lawyers, by opening, reading or stopping your letters.

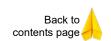
There are very few circumstances when it is lawful for the prison to look at your legal post. However, if this happens, you should be given the opportunity to be present when any mail is opened under **Rule 39**, and told if any legal mail is stopped or read and the reasons for this. If you have any concerns about unlawful interference with your legal mail, you can contact PAS for advice.



ONCE YOU LEAVE PRISON

Remember, if there is an order in place, you should comply with it whilst you are in prison and once you leave. If, when you leave, you would like to have more contact with your child or would like arrangements to change, you should try and agree any changes with their parent or carer. They have the discretion to allow more contact; the existing court order does not prevent them from allowing this.

If that person does not agree, you should follow the steps set out on page16 asking for the order to be changed. You must not go and take your child from the parent or carer. This could be considered child abduction, which is a criminal offence, and may result in you being arrested, charged, convicted and sent back to prison. Even if you are not prosecuted, such behaviour may result in your recall to prison, and you may have to serve the rest of your sentence.



USEFUL CONTACTS

Please be aware that most of the services listed below work across England and Wales, but some are limited to certain areas or specific prisons. We have included services that may be limited in this way because availability changes and a service that is currently only available in some prisons, may be available in additional prisons in the future, or you may transfer prison and a service become available to you that was previously not. It is always worth exploring what support is available to you.

FAMILY SUPPORT ORGANISATIONS / SERVICES

Children Heard and Seen

Support for children, parents & families who are affected by imprisonment.

Telephone: 07557 339258

Email: info@childrenheardandseen.co.uk

By post: Hill End Camp Eynsham Road Cumnor OX2 9NJ

www.childrenheardandseen.co.uk

Family Lives

Emotional support, information, advice and guidance for parents and families on a broad range of family issues.

Helpline: 0808 800 2222

Monday to Friday 9am to 9pm, Saturday and

Sunday 10am to 3pm

E-mail: askus@familylives.org.uk

www.familylives.org.uk

Families Need Fathers

Support and information for parents to have contact with their child following parental separation.

Helpline: 0300 0300 363

Monday to Friday 9am to 10pm, Saturday and

Sunday 10am to 3pm

www.fnf.org.uk

NEPACS

Information and support for prisoners and their families to promote family ties.

Freephone helpline: 0800 012 1539 Monday and Friday 12pm to 8pm Saturday and Sunday 9am to 2pm

Text: 07983 437 457

General enquiries: 0191 375 7278

Email: support@nepacs.co.uk

By post: 20 Old Elvet Durham DH1 3HW www.nepacs.co.uk

Prison Advice and Care Trust

Practical services in prison supporting prisoners and families to enhance prisoner's relationships.

Helpline: 0808 808 2003

Monday to Friday 9am to 8pm, Saturday and

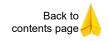
Sunday 10am to 3pm

Central office telephone: 020 7735 9535

Email: info@prisonadvice.org.uk

By post: 29 Peckham Road London SE5 8UA

www.prisonadvice.org.uk



Support through Court

Practical, procedural and emotional support during court hearings for litigants in person (unrepresented). They cannot provide legal advice or representation.

Helpline: 0300 081 0006

Monday to Friday 9:30am to 4.30pm

E-mail: phoneservicemanager@

supportthroughcourt.org

www.supportthroughcourt.org

Safe Ground

Offers group-work for men in prison, focusing on parental responsibilities and their child's education, development and wellbeing.

Telephone: 020 7820 8090

E-mail: info@safeground.org.uk

By post: Safe Ground 2 Langley Lane London SW8 1GB

www.safeground.org.uk

Storybook Dads

Help fathers in prison to record bedtime stories for their child.

Telephone: 0300 365 3237

By post: Storybook Dads HMP Channings Wood Denbury Newton Abbot Devon TQ12 6DW

www.storybookdads.org.uk

FAMILY LAW ORGANISATIONS / SERVICES

Both Parents Matter Cymru (Wales only)

Free legal advice and assistance for parents after separation, especially with difficulties over child arrangements.

Advice line: 0333 050 6815 Monday to Friday 10am to 7pm

www.bpmuk.org

Child Advice Law (part of the Coram Group)

Free legal advice and information on child and family law for parents.

Advice line: 0300 330 5480 Monday to Friday 8am to 6pm

www.childlawadvice.org.uk

Citizens Advice

Free advice on a variety of legal issues, including family matters

Advice line (England): 0800 144 8848 Advice line (Wales): 0800 702 2020 Monday to Friday 9am to 5pm

www.citizensadvice.org.uk

Family Rights Group

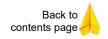
Free advice for parents, grandparents and carers about their rights when social workers or courts make decisions about their child.

Freephone Helpline: 0808 801 0366 Monday to Friday 9.30am to 3pm

Email: office@frg.org.uk

By post: 101 Pentonville Road London N1 9LG

www.frg.org.uk



Queen Mary Legal Advice Clinic

Free legal advice from students, under supervision of a qualified lawyer, on a full range of family law issues.

Telephone: 020 7882 3931

Email: lac@qmul.ac.uk

By post: School of Law Queen Mary University of London Mile End Road London E1 4NS

www.qmul.ac.uk/lac/clients/advice/family-law

Reunite

Free legal advice on child abduction and related issues.

Advice line: 01162 556 234 Monday to Friday 9.30am to 5pm

Email: reunite@dircon.co.uk

By post:

Reunite International Child Abduction Centre PO Box 7124 Leicester LE1 7XX

www.reunite.org

Resolution

Search engine to find an organisation providing family legal services, solicitors and barristers. Both private paying and legal aid clients (although legal aid is very limited for family matters).

Telephone: 020 3841 0300

www.resolution.org.uk

OTHER LEGAL ORGANISATIONS / SERVICES

Advocate (previously Bar Pro Bono Unit)

Free representation at court. They cannot assist with any preparatory work. It can be easier to be referred by an organisation, as much of the communication is by email. You could ask the family engagement/support worker if they can help.

Telephone: 020 7092 3960 (voicemail only)

Email, if you have not yet applied: enquiries@ weareadvocate.org.uk

Email, if you already have an application and a reference number: application@weareadvocate. org.uk

By post: Advocate 2nd Floor Lincoln House 296-302 High Holborn London WC1V 7JH

www.weareadvocate.org.uk

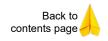
Law society - Find a Solicitor

Search engine to find an organisation providing legal services or a solicitor. Both private paying and legal aid clients (although legal aid is very limited for family matters).

Telephone: 020 7242 1222

By post: The Law Society's Hall 113 Chancery Lane London WC2A 1PL

www.solicitors.lawsociety.org.uk



Prisoners' Advice Service

Free legal advice on Prison Law issues, such as transfers, segregation, parole and adjudications. Upon request, PAS can send you family court forms. However, we ask fathers not to contact PAS for Family Law advice as we are unable to respond to queries in this area of law.

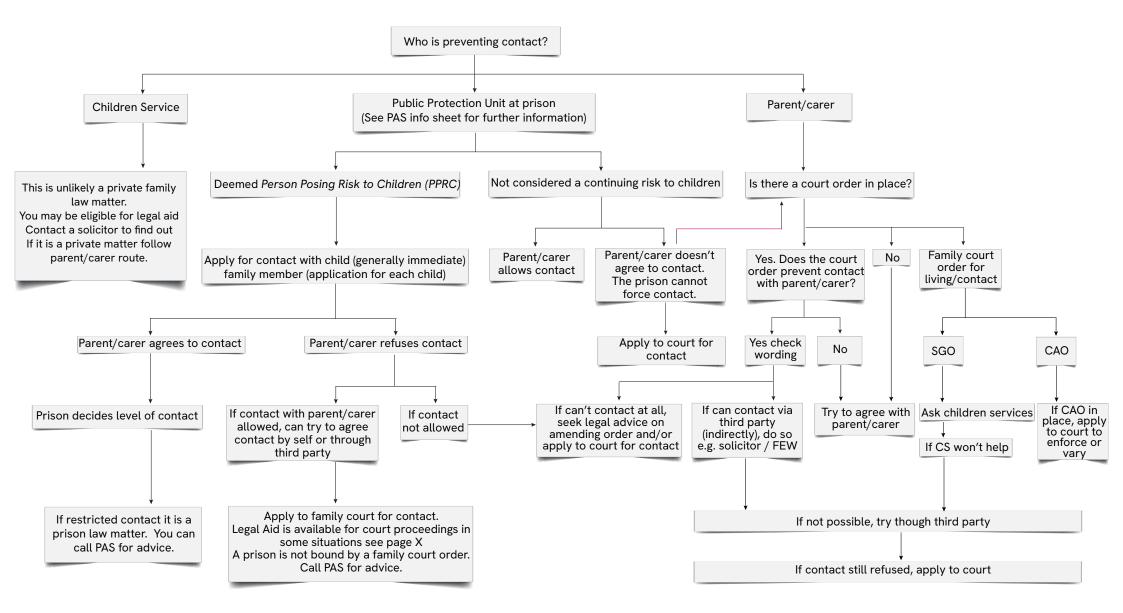
Advice line: 020 7253 3323 Monday, Wednesday and Friday 10am to 12.30pm and 2pm to 4.30pm

By post: Prisoners' Advice Service PO Box 46199 London EC1M 4XA

www.prisonersadvice.org.uk

PLEASE NOTE THAT ADVICE AND HELPLINES ARE LIKELY TO BE CLOSED ON BANK HOLIDAYS.

ANNEX A



Case Number: [this will be on any family court orders]

IN THE FAMILY COURT AT [insert the court location e.g. SHEFFIELD]
IN THE MATTER OF AN APPLICATION UNDER SECTION 8 OF THE CHILDREN ACT 1989
AND IN THE MATTER OF [INSERT YOUR CHILD/CHILDREN'S NAME/S and DATES OF BIRTH]
BETWEEN:

[Your name]

Applicant

-V-

[Name of the person caring for the children]

Respondent

FIRST WITNESS STATEMENT OF [Insert your name here]

- I, [insert your full name here], of [insert the name and address of the prison here] will say as follows:
- 1. I am the Applicant and I make this statement in support of my application for a Child Arrangements Order to spend time with [insert name/s of your child/children here].

Who are you? Do you have parental responsibility for your child/children?:

2. I am the mother/father/parent/step-parent of [insert name/s of your child/children here]. [If this applies: I have parental responsibility for the child and am named on the child's birth certificate].

Who is the Respondent to the application? Where does the Respondent live with the children?: The respondent will be the person whom your child is living with whilst you are in prison. Use this paragraph to set out the child's relationship with the respondent, the current care arrangements for the child (where they live, who looks after them and when) and, in brief, your current relationship with the respondent). For example:

3. The children, Eden and Kai, live with their mother, the Respondent, Jane Smith, who I was in a relationship with and lived with until 2018. Eden is 7 and Kai is 6. We lived together in a flat in Sheffield from before Eden was born until the end of our relationship in 2018. After the Respondent and I broke up, I moved out of the flat to another flat on the other side of the city.

How often did you see your child before you were sent to prison?:

It will help the court to make a decision about your application if you provide information about any arrangements to see your child that you had in the past. It can help the court to understand the child's relationship with you if you set out how you used to spend time with your child. For example:

4. After our relationship ended in 2018, the children would spend every other weekend with me at my flat and I spoke to them on the phone every Sunday evening. We would play video games together on Saturday evenings, which we all really enjoyed, and then I would put them to bed.

What is your relationship with the Respondent like at present?

The situation where parents or carers do not get on is common. If your relationship with the respondent is difficult, it is helpful to explain this to the court. Whether or not you get on, are on speaking terms, or could spend time together with the child is much more important than why there are any difficulties in the relationship or whose fault it might be. For example:

5. Since I broke up with their mother, we have tried to be friendly but since I have been in prison that has been very difficult, and she no longer answers the phone when I call.

If you were not seeing your child before you were sent to prison, explain why:

If the other parent would not let you see your child in the past, the court may need to know this. If things have changed in your life and you no longer think the respondent's concerns are valid, you should explain why. If your child has a social worker, or has had a social worker in the past, tell the court which local authority the social worker was from. For example:

6. In the past I used to drink too much, but after the child was born I got my drinking under control. When the relationship ended, I did not used to drink around the child, but there was an incident in May 2021 when my ex thought I had been drinking when the child was staying with me, even though I hadn't. After that, she was angry and stopped me having the child to stay with me overnight. This made organising contact with the child through my ex more difficult. In prison, I have given up drinking and am working with the addiction service to understand why I have sometimes used drinking to cope when I felt down in the past.

What is the current situation for you?

In order to decide whether you should have contact with your child, the court needs to understand why you are serving a prison sentence. It is also helpful to include information about which prison you are in, what category of prison it is and whether there are any restrictions on your contact with children already in place. If you are a registered sex offender, or you are in prison because of an offence relating to your family, you should include this here. The court will ask for this information so it is best if you provide it to the court yourself. If you are restricted in the contact you are allowed with your child because of public protection restrictions, then you will need to make an application to your prison to see your child, not the court. Contact PAS for advice about this. For example:

7. I am now in prison at HMP Chelmsford. It is a Category B prison for men. My sentence is for 4 years, and I have been in prison since 11th August 2021. I pleaded guilty to possession with intent to supply cocaine at Chelmsford Crown Court in November 2021. I have previous convictions for driving without insurance and theft, but this is my first time in custody. My date of release is likely to be in February 2024, but I am hoping to qualify for home detention curfew and to be released sooner.

What contact do you have with your child at the moment?

If you have had any contact with your child since you were remanded in custody, it can be helpful for the court to know what type of contact (telephone calls, letters, visits), and how often the contact is happening at the moment. If your child is visiting you in prison, explain who brings the child to see you and whether they supervise your contact by staying with the child throughout the visit or if you are left to spend time with your child by yourself. (It's unlikely you'll have been left on your own with your child unless you are in an open prison.) For example:

8. I send letters to my child when I can, but I find it difficult to know what to write to them because I am not speaking to them regularly and I don't know what is going on in their life. The last time I saw my child was shortly after I was sentenced in November 2021.

What contact would you like to have with your child:

Explain to the court what contact you would like to have with your child. You should say whether you want someone to bring your child to the prison to see you, or, if your child lives a long way away from the prison you are in, whether you would like visits a couple of times a year but have more regular video or telephone contact. If your child is very small you might want to ask the court to ask their carer to write letters to you from the children about what they are doing at school or nursery. It is important to remember that the court is only concerned with the best interests of the child, and not what is best for you or the respondent. It might be helpful to have a look at the PAS Guide and the Welfare Checklist before you decide what contact to ask for to help you make sure that you are asking for something realistic. For example:

9. I would like to see my child once a month and to speak to them on the phone or by video call once a week. I would like to see my child every school holiday and at least twice in the summer holidays. I understand that it is a long journey from Sheffield to Chelmsford and there is a possibility I may be moved before the end of my sentence. I spoke to my mum who lives in Sheffield and she has said she can help bring the child in her car or help with the cost of train tickets sometimes if their mother would prefer for someone else to bring them. If I am moved to a prison closer to Sheffield, I would like to see my children more often.

Why contact is good for your child's welfare:

The court will decide what contact to order based on what is best for your child. You should explain why contact with you is in their best interests and why the kind of contact you suggest is suitable. If you think that seeing you in prison might be difficult for the child, explain why it is still better for them to have contact with you. Again, the Welfare Checklist is a helpful guide to what the court is likely to be focused on when considering the application. For example:

10. Before prison, I used to see Eden and Kai every two weeks, even when they were not allowed to stay overnight with me. I want to make sure they know that I love them very much and still want to spend time with them. I know it will be a change for them to visit a prison. However, they have always had two parents who they see regularly and I think it would be worse for them not to see me at all, even if it might be difficult at first. When I broke up with their mum, we made sure they understood that we both loved them even though things would be different. Eden and Kai were always pleased to see me when I would collect them for contact, and enjoyed their time with me. I am sure that they would both want to see me regularly if they could.

11. I am confident that I can show them that even though I am in prison I am still the same person and love them just as much. It is hard for me not to see them but I am most worried about the effect on them if they do not see me for the long period I will be in prison. I know it will be a long journey for them and whoever brings them but I think they are old enough to do the journey once a month. Speaking to me on the phone was a normal part of their lives before I was sent to prison so I am keen to start doing that again as soon as possible. I can tell them on the phone a bit about what visiting me in prison might be like so that they know what to expect; I think this would help.

What arrangements does the prison have in place for your child to visit you?

Different prisons have different arrangements in place to support family visits and, in particular, children visiting the prison. Do speak to the family engagement worker or the chaplain about what is available in your prison, both for in-person visits and for video or telephone calls. Include any information you can find out about how you book the contact/visit and how you will communicate this to your family. For example:

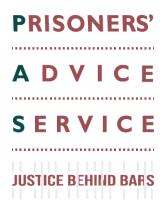
- 12. A charity organises 10 children's visits and two family days each year at HMP Chelmsford. I have spoken to the family engagement worker and asked to be put on the list for these days, as I know that they are popular. I hope that if Eden and Kai could visit on these days, it would be nicer for them, as there will be more child-friendly activities available for us to do together. Also, there is a service for parents to have video calls with family in my prison, which I think would be the best way for us to speak to each other in between visits as it would be easier for them to see my face. During the Covid-19 pandemic, we would speak via FaceTime sometimes, so this is something the children are used to.
- 13. I know that any contact will need to be organised in advance, as I will need to book it with the prison, and my family will need to organise the time with the prison too. I would like the video calls to fit in with Eden and Kai's weekend routine, but it might be that the calls need to be after school depending on what times the prison offers. It would be very helpful if the respondent could speak to the prison about organising the video contact and making sure the children are ready for any video calls.

What is a statement of truth?

Every witness statement must have a statement of truth. This is a sentence which tells the court that you believe the facts written in this statement are true. It must be signed by the person who believes the facts to be true. If you do not include the statement of truth or forget to sign it, the court can decide not to allow the information in your statement to be included in your case as evidence. This is why it is very important you read and sign the statement of truth. See below:

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.
Signed:
Date:



This Fathers in Prison Contact with Children Guide was compiled by Rose Harvey-Sullivan, Barrister at 7BR, to whom PAS is most grateful.

Please note that the author is unable to respond to individual requests for assistance.

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