STATUTORY INSTRUMENTS

2010 No. 1064 (L. 8)

FAMILY PROCEEDINGS

SENIOR COURTS OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

The Family Proceedings (Amendment) (No.2) Rules 2010

Made - - - -	*25th March 2010*
Laid before Parliament	*29th March 2010*
Coming into force - -	*6th April 2010*

The Family Proceedings Rule Committee makes the following Rules in exercise of the powers conferred by section 40(1) of the Matrimonial and Family Proceedings Act 1984(**a**) and sections 60(4), 102(1) to (4) and (6) to (8), 141(1) and (3) of, and paragraphs 1(4) and 4(4) of Schedule 1 to, the Adoption and Children Act 2002(**b**) as applied with modifications by regulation 2 of, and Schedule 1 to, the Human Fertilisation and Embryology (Parental Orders) Regulations 2010(**c**):

Citation and commencement

1. These Rules may be cited as the Family Proceedings (Amendment) (No.2) Rules 2010 and come into force on 6th April 2010.

Amendments to the Family Proceedings Rules 1991

2. The Family Proceedings Rules 1991(**d**) are amended in accordance with rules 3 to 10.

3. In the Arrangement of Rules, for the heading and entries for Part IVA, substitute—

(**a**) 1984 c.42. Section 40(1) was amended by section 125(3) of and paragraph 50 of Schedule 18 to the Courts and Legal Services Act 1990 (c.41) , section 15(1) of and paragraphs 379 and 380 of Schedule 4 to the Constitutional Reform Act 2005 (c.4) and by section 59(5) and paragraphs 4(1) and (3) of Part 2 of Schedule 11 to that Act.

(**b**) 2002 c.38. Section 102 was amended by section 40 of and paragraphs 15 and 16 of Schedule 3 to the Children Act 2004 (c.31) and section 141(1) was amended by section 109(1) and paragraph 413 of Schedule 8 to the Courts Act 2003 (c.39).

(**c**) S.I. 2010/985.

(**d**) S.I. 1991/1247. Relevant amending instruments are S.I. 1991/2113, 1994/2165 and 3155, 2004/3375, 2008/2861 and 2009/857 and 2027.

"PART IVA

PROCEEDINGS UNDER SECTION 54 OF THE HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008(**a**)

4A.1 Interpretation

4A.2 Application of this Part

4A.3 Application of Part IV

4A.4 Application for a parental order

4A.5 How to start parental order proceedings

4A.6 Personal details

4A.7 Who the parties are

4A.8 What the court shall do when the application has been issued

4A.9 What a proper officer shall do

4A.10 Service of the application and other documents

4A.11 Acknowledgement

4A.12 Date for first directions hearing

4A.13 The first directions hearing

4A.14 Where the agreement of the other parent or the woman who carried the child is not required

4A.15 Agreement

4A.16 Parental order reporter

4A.17 Reports of the parental order reporter and disclosure to the parties

4A.18 Notice of final hearing

4A.19 The final hearing

4A.20 Proof of identity of the child

4A.21 Disclosing information to an adult who was subject to a parental order

4A.22 Application for recovery orders

4A.23 Custody, inspection and disclosure of documents and information

4A.24 Documents held by the court not to be inspected or copied without the court's leave

4A.25 Orders

4A.26 Copies of orders

4A.27 Amendment and revocation of orders".

4. In rule 1.2(1), after the entry for "the Act of 2006", insert—

""the Allocation Order" means any order made by the Lord Chancellor under Part 1 of Schedule 11 to the Act of 1989;".

(**a**) 2008 c.22.

5. In rule 4.4(1A), in sub-paragraph (a)(i), omit the reference to Form C51.

6. In rule 4.6, omit paragraph (8).

7. For Part IVA, substitute—

"PART IVA

PROCEEDINGS UNDER SECTION 54 OF THE HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

Interpretation

4A.1. In this Part of these Rules—

"the Act of 2002" means the Adoption and Children Act 2002 as applied with modifications by the Human Fertilisation and Embryology (Parental Orders) Regulations 2010;

"the Act of 2008" means the Human Fertilisation and Embryology Act 2008;

"the other parent" means any person who is a parent of the child but is not one of the applicants or the woman who carried the child (including any man who is the father by virtue of section 35 or 36 of the Act of 2008 or any woman who is a parent by virtue of section 42 or 43 of that Act);

"parental order" means an order under section 54 of the Act of 2008;

"parental order proceedings" means proceedings for the making of a parental order under the Act of 2008 or an order under any provision of the Act of 2002;

"parental order reporter" means an officer of the service or a Welsh family proceedings officer appointed to act on behalf of a child who is the subject of parental order proceedings;

"provision for contact" means a contact order under section 8 or 34 of the Act of 1989.

Application of this Part

4A.2. Except where the contrary intention appears, the Rules in this Part apply to parental order proceedings.

Application of Part IV

4A.3. Subject to the other provisions of this Part, rules 4.1(1), 4.5, 4.6, 4.8, 4.10(2) to (10), 4.11, 4.11A(4) to (10), 4.11B, 4.14(3)(b) and (c), (4) and (6), 4.16(7), 4.17, 4.19, 4.20, and 4.21 apply as appropriate with any necessary modifications to parental order proceedings.

Application for a parental order

4A.4.—(1) The application for a parental order shall be made in Form C51.

(2) The applicants shall file Form C51 and any documents referred to in it with the court together with sufficient copies for one to be served on each respondent.

How to start parental order proceedings

4A.5.—(1) Parental order proceedings are started when a proper officer issues an application in Form C51 at the request of the applicant.

(2) An application is issued on the date entered in Form C51 by the proper officer.

Personal details

4A.6.—(1) The court may direct that a party is not required to reveal—

(a) the address or telephone number of their private residence;

(b) the address of the child; or

(c) the name of a person with whom the child is living, if that person is not the applicant.

(2) Where the court directs that a party is not required to reveal any of the particulars in paragraph (1), that party shall give notice of those particulars to the court in Form C8 and the particulars shall not be revealed to any person unless the court directs otherwise.

(3) Where a party changes his home address during the course of proceedings, that party shall give notice of the change to the court.

Who the parties are

4A.7.—(1) In parental order proceedings—

(a) the applicants may be such of the following who satisfy the conditions in section 54(1) of the Act of 2008—

(i) a husband and wife;

(ii) civil partners of each other; or

(iii) two persons who are living as partners in an enduring family relationship who are not within the prohibited degrees of relationship in relation to each other; and

(b) the respondents shall be—

(i) the woman who carried the child;

(ii) the other parent (if any);

(iii) any person in whose favour there is provision for contact; and

(iv) any other person or body with parental responsibility for the child at the date of the application.

(2) The court shall direct that a person with parental responsibility for the child be made a party to proceedings where that person requests to be one.

(3) The court may at any time direct that—

(a) any other person or body be made a respondent to the proceedings; or

(b) a respondent be removed from the proceedings.

(4) If the court makes a direction for the addition or removal of a party, it may give consequential directions about—

(a) serving a copy of the application form on any new respondent;

(b) serving relevant documents on the new party; and

(c) the management of the proceedings.

What the court shall do when the application has been issued

4A.8.—(1) As soon as practicable after the application has been issued the court shall—

(a) if section 48(1) of the Act of 2002 applies (restrictions on making adoption orders), consider whether it is proper to hear the application;

(b) subject to paragraph (2), set a date for the first directions hearing;

(c) appoint a parental order reporter; and

(d) set a date for the hearing of the application.

(2) Where it considers it appropriate the court may, instead of setting a date for a first directions appointment, give the directions provided for in rule 4A.13.

What a proper officer shall do

4A.9. As soon as practicable after the issue of proceedings a proper officer shall—

(a) return to the applicants the copies of Form C51 together with Forms C6, C6A and C52 as are appropriate; and

(b) send a copy of the certified copy of the entry in the register of live births to the parental order reporter.

Service of the application and other documents

4A.10. The applicants shall serve—

(a) Form C51 and any documents referred to in it, Form C6 and Form C52 on the respondents within 14 days before the hearing or first directions hearing; and

(b) Form C6A on any local authority or voluntary organisation that has at any time provided accommodation for the child.

Acknowledgement

4A.11. Within 7 days of the service of an application for a parental order, each respondent shall file and serve on all other parties an acknowledgement in Form C52.

Date for first directions hearing

4A.12. Unless the court directs otherwise, the first directions hearing shall be within 4 weeks beginning with the date on which the application is issued.

The first directions hearing

4A.13.—(1) At the first directions hearing in the proceedings the court shall—

(a) fix a timetable for the filing of—

(i) any report from a parental order reporter;

(ii) if a statement of facts has been filed, any amended statement of facts; and

(iii) any other evidence;

(b) give directions relating to the report of the parental order reporter and other evidence;

(c) consider whether any other person should be a party to the proceedings and, if so, give directions in accordance with rule 4A.7(2) or (3) joining that person as a party;

(d) give directions relating to the appointment of a guardian ad litem or next friend for any protected person unless a guardian ad litem or next friend has already been appointed;

(e) consider whether the case needs to be transferred to another court and, if so, give directions to transfer the proceedings to another court in accordance with the Allocation Order;

(f) give directions about—

(i) tracing the other parent or the woman who carried the child;

(ii) service of documents;

(iii) subject to paragraph (2), disclosure, as soon as possible, of information and evidence to the parties; and

(iv) the final hearing.

(2) Rule 4A.17 (reports of the parental order reporter and disclosure to parties) applies to any direction given under paragraph (1)(f)(iii) as it applies to a direction given under rule 4A.17(1).

(3) The parties or their legal representatives shall attend the first directions hearing unless the court directs otherwise.

(4) Directions may also be given at any stage in the proceedings—

(a) of the court's own motion; or

(b) on the application in Form C2 of a party or the parental order reporter.

(5) Where the court proposes to exercise the powers in paragraph (1) of its own motion, the court shall first give the parties —

(a) notice of its intention to do so; and

(b) an opportunity to attend and be heard or to make written representations.

(6) Where there is an application for directions to be made under paragraph (1), rule 4.14(3)(b) and (c),(4) and (6) as applied by rule 4A.3 shall apply.

(7) For the purposes of giving directions or for such purposes as the court directs—

(a) the court may set a date for a further directions hearing or other hearing; and

(b) the proper officer shall give notice of any date so fixed to the parties and to the parental order reporter.

(8) Directions of a court which are still in force immediately prior to the transfer of proceedings to another court shall continue to apply following the transfer subject to—

(a) any changes of terminology which are required to apply those directions to the court to which the proceedings are transferred; and

(b) any variation or revocation of the direction.

(9) The court or proper officer shall—

(a) take a note of the giving, variation or revocation of a direction under this rule; and

(b) as soon as practicable serve a copy of the note on every party.

(10) After the first directions hearing the court shall monitor compliance by the parties with the court's timetable and directions.

Where the agreement of the other parent or the woman who carried the child is not required

4A.14.—(1) The following paragraphs apply where the agreement of the other parent or the woman who carried the child to the making of the parental order is not required as the person in question cannot be found or is incapable of giving agreement.

(2) The applicants shall —

(a) state that the agreement is not required in Form C51 or at a later stage in a written note to be filed with the court;

(b) file a statement of facts setting out a summary of the history of the case and any other facts to satisfy the court that the other parent or the woman who carried the child cannot be found or is incapable of giving agreement.

(3) On receipt of Form C51 or written note—

(a) a proper officer shall—

(i) unless the other parent or woman who carried the child cannot be found, inform the other parent or woman who carried the child that their agreement is not required;

(ii) send a copy of the statement of facts filed in accordance with paragraph (2)(b) to—

(aa) the other parent unless the other parent cannot be found;

(bb) the woman who carried the child unless the woman cannot be found; and

(cc) the parental order reporter; and

(b) if the applicants consider that the other parent or the woman who carried the child is incapable of giving agreement, the court shall consider whether to—

(i) appoint a guardian ad litem for the other parent or the woman who carried the child; or

(ii) give directions for an application to be made under rule 9.2(5),

unless a guardian ad litem has already been appointed for the other parent or the woman who carried the child.

Agreement

4A.15.—(1) Unless the court directs otherwise, agreement of the other parent or the woman who carried the child to the making of the parental order may be given in Form A101A or a form to like effect.

(2) Any form of agreement executed in Scotland shall be witnessed by a Justice of the Peace or a Sheriff.

(3) Any form of agreement executed in Northern Ireland shall be witnessed by a Justice of the Peace.

(4) Any form of agreement executed outside the United Kingdom shall be witnessed by—

(a) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose;

(b) a British Consular officer;

(c) a notary public; or

(d) if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.

Parental order reporter

4A.16.—(1) A parental order reporter is appointed to act on behalf of a child who is the subject of parental order proceedings and has a duty to safeguard the interests of that child.

(2) In addition to such of the matters set out in rules 4.11 and 4.11A as applied by rule 4A.3 as are appropriate to parental order proceedings, the parental order reporter shall—

(a) investigate the matters set out in section 54(1) to (8) of the Act of 2008;

(b) so far as the parental order reporter considers necessary, investigate any matter contained in the application form or other matter which appears relevant to the making of the parental order;

(c) advise the court on whether there is any reason under section 1 of the Act of 2002 to refuse the parental order.

Reports of the parental order reporter and disclosure to the parties

4A.17.—(1) The court shall consider whether to give a direction that a confidential report of the parental order reporter be disclosed to each party to the proceedings.

(2) Before giving such a direction the court shall consider whether any information should be deleted including information which discloses the particulars referred to in rule 4A.6(1) where a party has given notice under rule 4A.6(2) (disclosure of personal details).

(3) The court may direct that the report shall not be disclosed to a party.

Notice of final hearing

4A.18. A proper officer shall give notice in Form C6 to the parties and the parental order reporter—

(a) of the date and place where the application shall be heard; and

(b) of the fact that, unless the person wishes or the court requires, the person need not attend.

The final hearing

4A.19.—(1) Any person who has been given notice in accordance with rule 4A.18 may attend the final hearing and be heard on the question of whether an order should be made.

(2) The court may direct that any person shall attend a final hearing.

Proof of identity of the child

4A.20.—(1) Unless the contrary is shown, the child referred to in the application shall be deemed to be the child referred to in the form of agreement to the making of the parental order where the conditions in paragraph (2) apply.

(2) The conditions are—

(a) the application identifies the child by reference to a full certified copy of an entry in the registers of live-births;

(b) the form of agreement identifies the child by reference to a full certified copy of an entry in the registers of live-births attached to the form; and

(c) the copy of the entry in the registers of live-births referred to in sub-paragraph (a) is the same or relates to the same entry in the registers of live-births as the copy of the entry in the registers of live-births attached to the form of agreement.

(3) Where the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of birth.

(4) The probable date of the child's birth may be specified in the parental order as the date of the child's birth.

(5) Where the child's place of birth cannot be proved to the satisfaction of the court—

(a) the child may be treated as having been born in the registration district of the court where it is probable that the child may have been born in—

(i) the United Kingdom;

(ii) the Channel Islands; or

(iii) the Isle of Man; or

(b) in any other case, the particulars of the country of birth may be omitted from the parental order.

Disclosing information to an adult who was subject to a parental order

4A.21.—(1) Subject to paragraph (2) the person who was subject to the parental order has the right, on request in Form A64A, to receive from the court which made the parental order a copy of the following—

(a) the application form for a parental order (but not the documents attached to that form);

(b) the parental order and any other orders relating to the parental order proceedings;

(c) any transcript of the court's decision; and

(d) a report made to the court by the parental order reporter.

(2) The court shall not provide a copy of a document or order referred to in paragraph (1) unless the person making the request has completed the certificate relating to counselling in Form A64A.

(3) This rule does not apply to a person under the age of 18 years.

Application for recovery orders

4A.22.—(1) An application for any of the orders referred to in section 41(2) of the Act of 2002 (recovery orders) may be made without notice in which case the applicant shall file the application—

(a) where the application is made by telephone, the next business day after the making of the application; or

(b) in any other case, at the time when the application is made.

(2) Where the court refuses to make an order on an application without notice it may direct that the application is made on notice in which case the application shall proceed in accordance with rules 4A.1 to 4A.19.

(3) An application for any of the orders referred to in section 41(2) of the Act of 2002 shall be made in Form C2.

(4) The respondents to an application under this rule are—

(a) in a case where parental order proceedings are pending, all parties to those proceedings;

(b) any person having parental responsibility for the child;

(c) any person in whose favour there is provision for contact;

(d) any person who was caring for the child immediately prior to the making of the application; and

(e) any person whom the applicant alleges to have effected, or to have been or to be responsible for, the taking or keeping of the child.

Custody, inspection and disclosure of documents and information

4A.23.—(1) All documents relating to parental order proceedings shall, while they are in the custody of the court, be kept in a place of special security.

(2) Any person who obtains any information in the course of, or relating to, parental order proceedings shall treat that information as confidential and shall only disclose it if—

(a) the disclosure is necessary for the proper exercise of that person's duties; or

(b) the information is requested by—

(i) a court or public authority (whether in Great Britain or not) having power to determine parental order proceedings and related matters, for the purpose of that court or authority discharging its duties relating to those proceedings and matters; or

(ii) a person who is authorised in writing by the Secretary of State to obtain the information for the purposes of research.

Documents held by the court not to be inspected or copied without the court's leave

4A.24. Subject to the provisions of these Rules or any direction given by the court—

(a) no document or order held by the court in parental order proceedings and related proceedings under the Act of 2002 shall be open to inspection by any person; and

(b) no copy of any such document or order, or of an extract from any such document or order, shall be taken by or given to any person.

Orders

4A.25.—(1) A parental order takes effect from the date when it is made, or such later date as the court may specify.

(2) In proceedings in Wales a party may request that an order be drawn up in Welsh as well as in English.

Copies of orders

4A.26.—(1) Within 7 days beginning with the date on which the final order was made in proceedings, or such shorter time as the court may direct, a proper officer shall send—

(a) a copy of the order in Form C53 to the applicant;

(b) a copy which is sealed, authenticated with the stamp of the court or certified as a true copy of a parental order, to the Registrar General;

(c) a notice of the making or refusal of—

(i) the final order; or

(ii) an order quashing or revoking a parental order or allowing an appeal against an order in proceedings,

to every respondent and, with the leave of the court, any other person.

(2) A notice of refusal of a parental order shall be in Form C54.

(3) The proper officer shall also send notice of the making of a parental order to—

(a) any court in Great Britain which appears to the proper officer to have made any such order as is referred to in section 46(2) of the Act of 2002 (order relating to parental responsibility for, and maintenance of, the child); and

(b) the principal registry, if it appears to the proper officer that a parental responsibility agreement has been recorded at the principal registry.

(4) A copy of any final order may be sent to any other person with the leave of the court.

(5) The proper officer shall send a copy of any order made during the course of the proceedings to all the parties to those proceedings unless the court directs otherwise.

(6) If an order has been drawn up in Welsh as well as in English in accordance with rule 4A.25(2), any reference in this rule to sending an order is to be taken as a reference to sending both the Welsh and English orders.

Amendment and revocation of orders

4A.27.—(1) This rule applies to an application under paragraph 4 of Schedule 1 to the Act of 2002 (amendment of a parental order and revocation of direction).

(2) The application shall be made in Form C2.

(3) Subject to paragraph (4), an application may be made without serving a copy of the application.

(4) The court may direct that an application be served on such persons as it thinks fit.

(5) Where the court makes an order granting the application, a proper officer shall send the Registrar General a notice—

(a) specifying the amendments; or

(b) informing the Registrar General of the revocation,

giving sufficient particulars of the order to enable the Registrar General to identify the case.
".

8. In rule 10.28, for paragraph (1), substitute—

"(1) This rule applies when proceedings are held in private except in relation to hearings—

(a) conducted for the purpose of judicially assisted conciliation or negotiation ; or

(b) in proceedings to which Part IVA of these Rules applies.".

9. In Appendix 1—

(a) in the list of forms, after the entry for Form C54—

(i) in the first column insert "A64A", in the second column "Application", and in the third column "for a recovery order"; and

(ii) in the first column insert "A101A", in the second column "Consent", and in the third column "to the making of a parental order";

(b) for Forms C51, C52, C53 and C54, substitute the forms set out in Part 1 of the Schedule; and

(c) after Form C54, insert Forms A64A and A101A as set out in Part 2 of the Schedule.

10. In Appendix 3, omit the entries in columns (i) to (iv) relating to section 30 of the Human Fertilisation and Embryology Act 1990(**a**).

Transitional provisions relating to Human Fertilisation and Embryology

11.—(1) These Rules shall apply as far as practicable to an application for—

(a) a parental order under section 30 of the Human Fertilisation and Embryology Act 1990; and

(b) any order under the Adoption Act 1976 as modified by the Parental Orders (Human Fertilisation and Embryology) Regulations 1994(**b**),

made and not disposed of before these Rules come into force.

(2) Where, by reason of paragraph (1), these Rules do not apply to particular proceedings which have not been disposed of before these Rules come into force, the Family Proceedings Rules 1991 shall apply to those proceedings as if these Rules had not been made.

(3) The court may give directions relating to the application of these Rules or the Family Proceedings Rules 1991 to proceedings in accordance with paragraphs (1) or (2) of this rule.

Mark Potter, P
Philip Waller
Bruce Edgington
Duncan Adam
David Salter
Charles Hyde

I allow these Rules

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

25th March 2010

(**a**) 1990 c.37. Section 30 was amended by section 139(1) and paragraphs 76 and 79 of Schedule 3 to the Adoption and Children Act 2002 (c.38) and by S.I .2009/1892 and is repealed by sections 57(3) and 66 of and Part 1 of Schedule 8 to the Human Fertilisation and Embryology Act 2008 (c.22)..

(**b**) S.I.1994/2767 as amended by S.I. 2005/2897.

SCHEDULE

Rule 9

PART 1

C51

Application for a Parental Order

Section 54 Human Fertilisation and Embryology Act 2008

To be completed by the court
Name of court
Date received by the court
Date issued
Case number

Please complete this form using black ink

The notes on page 9 of this form will tell you what to do when you have completed the form.

If there is more than one child you must fill in a separate form for each child.

Cafcass/CAFCASS CYMRU will carry out checks as it considers necessary.

Cafcass - Children and Family Court Advisory and Support Service (in England); CAFCASS CYMRU - Children and Family Court Advisory and Support Service Wales.

Please answer every part. if a part does not apply or you do not know what to say please say so. If there is not enough room continue on another sheet (put the child's name and the number of the part on the sheet).

If you have any concerns about giving your address or that of the child, you may give an alternative address where papers can be served. However, you must notify the court of the actual address on a separate form available from the court.

1. About the child

The birth name of the child

First name

Middle name(s)

Surname

Date of birth D D / M M / Y Y Y Y Gender ☐ Male ☐ Female

The address where the child was born

Postcode

The address where the child lives now

Postcode

The person(s) who have parental responsibility
See notes on the last page

The name(s) of the child if a Parental Order is made

The child has had their home with the applicants continuously since D D / M M / Y Y Y Y

C51 Application for a parental order (04.10)

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2. About the applicants

1st Applicant

Your first name

Middle name(s)

Surname

Date of birth D D / M M / Y Y Y Y Gender ☐ Male ☐ Female

Your occupation

Are you a genetic parent of the child? ☐ Yes ☐ No

Are you domiciled in the United Kingdom, Channel Islands or the Isle of Man? ☐ Yes ☐ No

2nd Applicant

Your first name

Middle name(s)

Surname

Date of birth D D / M M / Y Y Y Y Gender ☐ Male ☐ Female

Your occupation

Are you a genetic parent of the child? ☐ Yes ☐ No

Are you domiciled in the United Kingdom, Channel Islands or the Isle of Man? ☐ Yes ☐ No

About the applicants (continued)

Both applicants

If you do not wish your address to be made known to the respondent, leave the address details blank and complete Confidential Address Form C8.

Address

Postcode

Home telephone number

Mobile telephone number

Have you lived at this address for more than 5 years?

☐ Yes ☐ No

If No, please provide details of all previous addresses you have lived at for the last 5 years.

3

About the applicants (continued)

Your solicitor's details

Do you have a solicitor acting for you? ☐ Yes ☐ No

If Yes, please give the following details

Your solicitor's name

Name of firm

Address

Postcode

Telephone number

Fax number

DX number

Solicitor's Reference

3. About the birth parents

The birth mother

Her full name

Her full address

Postcode

The birth father (if any)

His full name

His full address

Postcode

4

4. Parental agreement

Does the birth mother agree to a Parental Order being made?

☐ Yes ☐ No

Does the birth father or other parent (if applicable) agree to a Parental Order being made?

☐ Yes ☐ No

- The agreement of the birth mother and father (where appropriate) is required, or must be dispensed with under one of the grounds listed below, before an order can be made.
- The child must be at least 6 weeks old when the agreement is given.

Will you be asking the court to dispense with the agreement of a birth parent?

☐ Yes ☐ No

If Yes, give the name(s) of the birth parent(s) whose agreement you wish to dispense with.

The grounds for dispensing with the agreement are

☐ the person(s) cannot be found

or

☐ the person(s) are incapable of giving agreement

Please provide a separate statement of facts you are using for dispensing with agreement (and copies for the respondent.)

IMPORTANT: The court will send a copy of your statement of facts to each respondent. If you intend to ask the court to keep your address confidential, you should make sure that the statement of facts does not include any information that could identify where you live.

5. General information

Has the child ever been looked after by a local authority or voluntary organisation?

☐ Yes ☐ No

If Yes,

- give the period during which this organisation has looked after the child
- give details of the organisation

Have there been, or are there any other court proceedings pending or in progress which concern this child?

☐ Yes ☐ No

If Yes, give details of the proceedings.

Give the name of the court and the case number of the proceedings, if known.

General information (continued)

To the best of your knowledge, have there been, or are there any court proceedings pending or in progress which concern any other children of the applicants' family?

☐ Yes ☐ No

If Yes, give details of the proceedings.

Give the name of the court and the case number of the proceedings, if known.

Is there a licensed treatment centre?

☐ Yes ☐ No

If Yes, give the name, address and any reference of the treatment centre.

Cases concerning a related child

☐ To the best of my knowledge, no proceedings relating to a full, half or step brother or sister of the child have been completed or commenced in any court

OR

☐ The following proceedings relating to a full, half or step brother or sister of the child have been completed/commenced (please, **attach a copy of the final order**)

Relationship to child (eg. sister, half-brother)	Type of order made (or applied for)	Date of order (or date of next hearing)	Name of court	Case number (or serial number)

6. The respondents

The respondent(s) will be

- The woman who carried the child
- any other person who is a parent of the child but is not one of the applicants (including any man who is the father by virtue of section 35 or 36 of the 2008 Act or any woman who is a parent by virtue of section 42 or 43 of that Act)
- any person in whose favour there is provision for contact with the child
- any other persons or body with parental responsibility for the child at the date of the application.

You need not give details of the birth parent(s)

Please put the address where the respondent usually lives or can be served with papers

You will have to serve a copy of this application and the other papers required on each of the respondents (including the birth parent(s))

The name of the respondent	The respondent's address

7. Declaration

We declare that

- we are married to each other and our marriage certificate is attached,

or

- we are civil partners and our civil partnership certificate is attached,

or

- we are living as partners in an enduring family relationship and are not within the prohibited degrees of relationship to each other

- that no money or other benefit (other than for expenses reasonably incurred) has been received or given by the applicants for or in consideration of the matters set out in section 54(6) of the Human Fertilisation and Embryology Act 2008
- a copy of the child's birth certificate is attached and the child is the person to whom the attached certified copy of the entry in the Register of Live Births relates
- the information we have given is correct and complete to the best of our knowledge

We believe the facts stated on this form are true. Court proceedings may be brought against a person who makes or causes to be made, a false statement in a document.

1st Applicant

Signed Date D D / M M / Y Y Y Y

2nd Applicant

Signed Date D D / M M / Y Y Y Y

9. Attending the court

Section N of the the booklet **'CB1 - Making an application - Children and the Family Courts'** provides information about attending court.

If you require an interpreter, you must tell the court now so that one can be arranged.

Do you or any of the parties need an interpreter at court?

☐ Yes ☐ No

If Yes, please specify the language and dialect:

If attending the court, do you or any of the parties involved have a disability for which you require special assistance or special facilities?

☐ Yes ☐ No

If Yes, please say what the needs are

Please say whether the court needs to make any special arrangements for you to attend court (e.g. providing you with a separate waiting room from the respondent or other security provisions).

Court staff may get in touch with you about the requirements

What you (the person applying) must do next

- Take or send this form to the court with a copy for service on each of the respondent(s) listed in Parts 3 and 6. The form will be kept by the court. the other copies will be given or sent back to you.
- You **must** send or take
  - the form of Acknowledgement (form C52)
  - a copy of this Application form

  to each respondent according to the Rules.

Notes about parental responsibility, birth parents and prohibited degree of relationship

Parental responsibility

Some people have 'parental responsibility' for a child. The law says what 'parental responsibility' is and which people have it. These people include:

A the birth mother

B the birth father
if he was married to the child's birth mother when the child was born

C the birth father
if he was **not** married to the child's birth mother when the child was born
- **but** registered the birth jointly with the child's birth mother
- **or** he now has a court order which gives him parental responsibility
- **or** he now has a formal 'parental responsibility agreement' with the child's birth mother
- **or** he has since married the child's birth mother

D a guardian of the child

E someone who holds a custody or residence order

F a local authority which has a care order

G someone who holds an emergency protection order

H any man or woman who has adopted the child

I the second female parent,
if she was the civil partner of the child's birth mother when the child was born

J the second female parent
if she was **not** the civil partner of the child's birth mother when the child was born
- **but** registered the birth jointly with the child's birth mother
- **or** she now has a court order which gives her parental responsibility
- **or** she now has a formal 'parental responsibility agreement' with the child's birth mother
- **or** she has since become the civil partner of the child's mother

K someone who has been appointed as a special guardian for the child

Birth Parents

The birth father is

- the man (whether or not he is the genetic father of the child) with whom a birth mother received treatment at a licensed treatment centre when he has given a notice to the responsible person stating that he consents to being treated as the father of the child and the birth mother has also given a notice that she consents to him being treated as the father of the child. This is provided no subsequent notices withdrawing consent have been given and provided the man and the woman are not within prohibited degree of relationship in relation to each other. (Sections 35 and 36 of the 2008 Act.)

- the husband of a birth mother whether or not he is the genetic father of the child.
This does not apply if it can be shown that the husband did not consent to her treatment.

The second female parent is

- the civil partner of a birth mother.
This does not apply if it can be shown that she did not consent to her treatment.

- the woman with whom a birth mother received treatment at a licensed treatment centre when she has given a notice to the responsible person stating that she consents to being treated as the parent of the child and the birth mother has also given a notice that she consents to her being treated as the parent of the child. This is provided no subsequent notices withdrawing consent have been given and provided the birth mother and the woman are not within prohibited degree of relationship in relation to each other. (Sections 42 and 43 of the 2008 Act.)

Prohibited degree of relationship

Two people are within the prohibited degree of relationship with each other if they share the following relationship:

Adoptive child	Grandparent
Adoptive parent	Grandchild
Child	Parent
Former adoptive child	Parent's sibling (aunt, uncle)
Former adoptive parent	Sibling (brother, sister, half-brother, half-sister)

Acknowledgment

Section 54 Human Fertilisation and Embryology Act 2008

Name of court	
Case number	

To the applicant: You will need a copy of this form for each respondent and birth parent.
On each copy you must put in the boxes:

- the name and address of each respondent or birth parent, and the name of the child.

Respondent's name and address

To the respondent

The birth name of the child *Put the surname last*	

You will get with this form a copy of

- an application that has been made to the court.

Please

- read the application
- answer the questions on the other side of this form.

The court will send you a Notice of Hearing separately.

You must

- return this acknowledgment to the court at the address below
- send or give a copy of this acknowledgment to the applicant, birth parent(s) and each respondent (see parts 2, 3, and 6 of the application form) **within 7 days**

from the date you were given the Notice of Hearing
or of the post mark on the envelope, if the Notice was posted to you.

To the court: insert the name and address of your court

The court office is open from am to pm on Monday to Friday

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Acknowledgment

Case number

1. (a) Your name
Put your surname last

(b) Your address

(c) When did you receive this form? D D / M M / Y Y Y Y

2. Have you given consent to the court making a Parental Order or do you wish to oppose the application?

☐ Yes ☐ No

If No, please explain briefly why

3. Do you wish to give evidence on the question as to whether a Parental Order should be made?

☐ Yes ☐ No

If Yes, please give brief details

continued over the page

4. Do you have a solicitor acting for you? ☐ Yes ☐ No

If Yes, please give the following details

Your solicitor's name	
Name of firm	
Address	Postcode
Telephone number	
Fax number	
DX number	
Solicitor's Reference	

5. **I declare** that the information I have given is true and correct to the best of my belief.

Signed Date

Parental Order

Section 54 Human Fertilisation and Embryology Act 2008

Name of court	
Case number	

1. About the child

(a) The birth name of the child
Put the surname last

(b) Sex ☐ Male ☐ Female

(c) The child was born on D D / M M / Y Y Y Y Age now

2. About the applicants

(a) The full names
Put the surname last 1st Applicant

(b) The full names
Put the surname last 2nd Applicant

(c) The order was made on D D / M M / Y Y Y Y

3. The court grants a Parental Order to the applicants.

[The court has ordered the costs as follows:]

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4. The child is to be known by the following names:

5. The court has directed the Registrar General

to enter the details set out in this order in the Parental Order Register in accordance with Regulations under paragraph 1 of Schedule 1 to the Adoption and Children Act 2002 as modified by the Human Fertilisation and Embryology (Parental Orders) Regulations 2010.

and to insert the words 'Re-registered by the Registrar General' against the entry in the Register of Births.

Ordered by [Mr] [Mrs] Justice
[His] [Her] Honour Judge
Recorder
District Judge [of the Family Division] [Magistrates' Court]
Justice[s] of the Peace

on D D / M M / Y Y Y Y

Notice of refusal of a Parental Order

Section 54 Human Fertilisation and Embryology Act 2008

Name of court	
Case number	

Keep this notice for future reference

1. About the child

(a) The birth name of the child
Put the surname last

(b) Gender

(c) The child was born on D D / M M / Y Y Y Y Age now

2. About the applicants

(a) The full names
Put the surname last

1st Applicant

2nd Applicant

(b) The order was made on D D / M M / Y Y Y Y

3. Take notice that a Parental Order has been refused in respect of the child.

Ordered by [Mr] [Mrs] Justice
[His] [Her] Honour Judge
Recorder
District Judge [of the Family Division] [Magistrates' Court]
Justice[s] of the Peace

on D D / M M / Y Y Y Y

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PART 2

Application to receive information from court records about a parental order

Section 60(4) Adoption and Children Act 2002

Name of court	
Case no. (If known)	

Part 1 About you

1) Title

☐ Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other _____

2) My name is

First name(s) in full

Last name

3) My address is

4) My date of birth is

5) The names of my parent(s)

First name(s) in full

Last name

First name(s) in full

Last name

6) The date of the parental order (if known):

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Part 2 The application

I apply for a copy of the following documents:

- ☐ The application form for a parental order (this will not include the documents attached to that form)
- ☐ The parental order or any other order relating to the parental order proceedings
- ☐ Any transcript of the court's decision
- ☐ A report made to the court by the parental order reporter

Part 3 Signature of applicant

I certify that I am the person to whom the attached certified copy of the entry in the Parental Order Register relates. I confirm that I have received information about counselling services and have been given a suitable opportunity to receive such counselling.

Print full name

Signed

Date

To be completed by the court

Proof of Identity

Seen by
(court officer)

Counselling

The court cannot provide you with a copy of any prescribed document or order unless it is satisfied that you have been informed about the availability of counselling services providing counselling in relation to the implications of the court providing you with these documents and that you have been given an opportunity to receive counselling. You will need to consider this before making your application.

Details of counselling can be obtained from the court and from the Department of Health website.

Guidance Notes: Application for information from court records

You should attach a full certified copy of the entry in the Parental Order Register which relates to you.

When you have completed the form you should take it in person to any court along with evidence of your identity showing a photograph and signature, such as a passport or driving licence.

The court will check the evidence of your identity, make a note of it on the application form and return it to you.

What happens next

The court will then send your application to the court which made the parental order. The court which made the order will locate the court records relevant to your application and send copies of the documents you have requested to your home address.

Agreement to the making of a parental order in respect of my child

Section 54 of the Human Fertilisation and Embryology Act 2008

Name of child……..…….....……….....

Before signing this form you are advised to seek legal advice about agreeing to the making of a parental order and the effect on your parental rights. If you are making this agreement outside the United Kingdom you should seek legal advice about the law in the country concerned. Publicly funded legal advice may be available from the Community Legal Service. You can get information about this or find a solicitor through CLS Direct on www.clsdirect.org.uk or by telephoning 0845 345 4 345

I agree to a parental order being made in respect of _____ (my child), who is the child to whom the attached certified copy of the entry in the Register of Live Births relates. in favour of

*[_____(the named prospective parents)]

If a parental order is made in respect of my child, I understand that I will no longer legally be treated as the parent and that my child will become a part of the applicants' family.

I understand that I may withdraw my agreement at any time until the court makes the parental order. If I do withdraw my agreement and want my child returned to me, I understand that I must notify the court that I have changed my mind and I must, at all times, act through the court and not approach the applicants directly.

I have not received any payment or reward from any person making arrangements for the parental order for my child, other than for expenses reasonably incurred.

*[I have taken legal advice] / *[I have not taken legal advice, but I have been advised to do so],
about giving agreement to a parental order being made in respect of my child and the effect on my parental rights.
(delete as appropriate)

I agree unconditionally and with full understanding of what is involved, to the making of a parental order in respect of _____ (my child) in favour of
*[_____(the applicants]

Signed.....

on.....day of 20*xx*

Witness statement

This form was signed by .....
on the.....day of 20*xx*
before me *(print full name)*.....

Signed.....

Office of witness*……
Address of witness……..
……
……

* In England and Wales this form must be witnessed by an officer of the Children and Family Court Advisory and Support Service (Cafcass) or, where the child is ordinarily resident in Wales, by a Welsh family proceedings officer.

A101A Agreement to the making of a parental order in respect of a child

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Rules 1991.

They substitute a new Part IVA into the 1991 Rules. This Part deals with an application for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008 (c.22). Section 54 replaces section 30 of the Human Fertilisation and Embryology Act 1990 (c.37) which has been repealed. The rules for the application for a parental order are modelled on the rules for the application for an adoption order contained in the Family Procedure (Adoption) Rules 2005 (SI 2005/2795).

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