

# Care proceedings

Finding help if your children may be taken into care

*What happens if the council starts care proceedings?*

*Could someone in my family look after my child?*

*How can I get my child back living with me?*



**0845 345 4 345**

[www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk)

See page 10 for useful phone numbers and website addresses

A free and confidential advice service paid for by Legal Aid

community  
legal advice

# Community Legal Advice

This guide has been produced by Community Legal Advice (CLA), a free and confidential advice service paid for by legal aid.

Community Legal Advice provides:

- advice leaflets on a range of topics
- a helpline **0845 345 4 345**
- a website

[www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk)

People on a low income can get free, specialist legal advice from the CLA helpline.



# When can the council take my children into care?

The thought of someone taking your children away from you is frightening and distressing for anyone – even if the people involved are doing it because they think it is best for the children.

Taking your children away from you should normally be the last step the council takes to make sure your children are safe and well cared for. If the council is concerned about your child's welfare, it must look closely at your and your child's situation. It should normally offer you help, and find ways of keeping your child safe. You should be involved in decisions made about your child.

This leaflet looks at some common questions about what happens if the council is concerned about your child, and explains how you can get free, expert advice.

## What can the council do if it is concerned about how I look after my child?

If the council has concerns about your child or children, it must look carefully at your and your children's situation. It must offer you help and look for ways to make sure your children are properly cared for. This may mean putting together a child protection plan.

If the council is still concerned about your children, and it thinks they are not being properly cared for, it can apply to the court for a 'care order'. This would allow it to take your children away from you. But you normally have a right to argue against this.

If you are in this situation, you'll urgently need to get expert legal advice. If you are a parent or have parental responsibility for your children, you can get legal aid to pay for this. See page 5 for how to find a specialist solicitor.

## Can I get help so that my child can stay with me at home?

In most cases, the council should offer you help so that your child can stay with you. Tell the council that this is what you want, and what you think would be best for your child.

Your council may offer daycare, for example, or help in your home from trained volunteers. And you may be able to attend a parenting skills programme or get counselling.

There may be other ways to keep your child with you. For example, if the council believes that someone in your household has harmed your child, it may find somewhere else for that person to live, so your child can stay with you.

If you're not sure how to ask for help, or what to ask for, get advice from the Family Rights Group (phone **0808 8010366**, or visit [www.frg.org.uk](http://www.frg.org.uk)).

## The council is arranging a 'child protection conference' – could my child be taken away from me if I go to it?

No. A 'child protection conference' is a meeting arranged by the council to decide whether it needs to make a child protection plan for your child. As part of this plan, the council may offer you help in looking after your child.

The meeting will include people and organisations that are involved with your child, such as doctors, social workers and schools. They will give information about your child to help the council decide what to do.

You and other family members will also be invited to the meeting. The person who will run the meeting should talk to you beforehand about what it is for. If you're worried about going to the meeting or what to say there, you can take a friend or someone to help you, such as a solicitor.

To get advice before a child protection conference, contact the **Family Rights Group** (phone **0808 8010366**, or visit [www.frg.org.uk](http://www.frg.org.uk)).

## What if I don't co-operate with the council's plans for my child?

If you're unhappy with what the council is suggesting for your child, don't just refuse to co-operate – it won't help you or your child. And if you don't co-operate, the council may apply to court to take your child away from you.

So if you're unhappy with what is happening, seek advice straight away, for example from the **Family Rights Group** (phone **0808 8010366**, or visit [www.frg.org.uk](http://www.frg.org.uk)), on your options, and how to work with the council.

## What if the council says it will start care proceedings if I don't sort out the problems with my children?

Except in a real emergency, the council should send you a letter stating its concerns about your child and telling you that it plans to start care proceedings if you don't sort out the problems and make the changes they have asked you to. This letter should say exactly what you must do to stop the council going to court. You should also normally be invited to a meeting with the social worker to discuss this.

You need to get some expert legal advice quickly. You should try to get a solicitor who is a member of the Children Panel of the Solicitors Regulation Authority – they have the kind of experience you need (see below for how to find one). Show the solicitor your letter, as it will help you get legal aid. And ask them to come to the meeting with you.

You can get details of Children Panel solicitors from:

- **Community Legal Advice** – phone **0845 345 4 345** or visit [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk)
- **The Law Society** – phone: **0870 606 2555** or visit [www.lawsociety.org.uk/choosingandusing/findasolicitor](http://www.lawsociety.org.uk/choosingandusing/findasolicitor)

Alternatively, contact the **Family Rights Group** free advice service (phone **0808 8010366**, weekdays, or visit [www.frg.org.uk](http://www.frg.org.uk)). Their advisers will explain your options.

## Could another family member look after my child if I can't?

This can be a good option if you're having difficulty caring for your child. If the council has raised concerns about your child's welfare, it should consider whether a family member could look after him or her before it applies for a care order. So you should think about who might be willing and able to do this.

Sometimes this arrangement is made more formal. This happens when a court grants an order – normally a 'residence order' or 'special guardianship' order – saying who your child will live with.

In this situation, the person your child will live with gets 'parental responsibility' for the time the order lasts. This means they can make most decisions about how your child is raised. But you would normally be able to spend time with your child during this period as well.

## What is a 'family group conference' – will it help me?

A family group conference (FGC) is a meeting where you and the rest of the child's family can suggest plans for keeping your child safe and well cared for.

The FGC is arranged by a person who is independent from the council, called a co-ordinator, but it's meant to be led by the family. Everyone who is close to your child – including close friends – should take part. Professionals, such as social workers and doctors, only join in part of the conference.

The council should normally offer to arrange an FGC before it starts care proceedings. You can also ask for an FGC when the council first raises concerns about your child, or at any other time. If the council is happy with the plans you put forward, it will not normally start court proceedings.

## What will happen if the council starts care proceedings?

The council should warn you by letter that it is going to start care proceedings, unless there is a real emergency. In any event, you will receive a notice from the Family Proceedings Court telling you where and when the first hearing of the care proceedings will take place.

As soon as you know that the council wants to start care proceedings, get a specialist solicitor as quickly as possible. As a parent (or someone with parental responsibility for the child), you can get legal aid to pay a solicitor's fees for this sort of help, however much money you have.

## If they take my child away, can I still see him or her?

In most cases, yes. If the court makes a care order that your child will not live with you, it must also decide how and when you and other family members, such as brothers and sisters, will see him or her. These are called contact arrangements.

You will be able to say what you think of the contact arrangements the council suggests. If you are unhappy about them, tell your solicitor what you want.

If you don't agree with the contact arrangements in the care plan, you can apply to the court for

a 'contact order', which could set out different arrangements. But if you do this after a final care order has been made, you won't automatically get legal aid for it. So ask your solicitor for advice.

## What can I do to get my child home again?

If your child is under a care order and no longer lives with you, and you want him or her back, you can ask the court to 'discharge' (end) the care order. But a court will normally only do this if there has been a real change in circumstances since the order was made.

You will have to prove to the court that it would be in your child's best interests to discharge the care order. The court will also look at any current risks to your child. For advice about this, contact the **Family Rights Group** (phone **0808 8010366**, or visit [www.frg.org.uk](http://www.frg.org.uk)).

The court may replace the care order with a supervision order, which means the council will no longer have parental responsibility for your child but it will supervise (regularly check on) how you care for your child instead.

If you want to apply to discharge a care order, you will need a solicitor to prepare your case for you. You won't automatically get legal aid for this – see 'Can I get legal aid?' on page 12 for more about who can get legal aid.

## Where can I get further advice?

### Family Rights Group

Family Rights Group is a charity that provides advice and information for families who are in contact with the council about the care of their children. You can:

- phone the Advice Line (free from landline phones): **0808 8010366**, weekdays 10am to 3.30pm
- email: [advice@frg.org.uk](mailto:advice@frg.org.uk)
- visit [www.frg.org.uk](http://www.frg.org.uk)

### Community Legal Advice

We can give you contact details of solicitors in your area who deal with children and social care.

We can also give help and advice on other problems: if you have a low income (including if you receive benefits) and qualify for legal aid, you can call us for independent advice about debt, education, benefits and tax credits, employment and housing problems

If you do not qualify for legal aid, or if you have another type of problem, we can put you in touch with other organisations, helplines or local advice centres that can help. We direct you to other legal information.

## How to contact us

You can speak to our advisers in several ways:

- Call us on **0845 345 4 345** from 9am to 8pm Monday to Friday and 9am to 12.30pm Saturday. Calls cost no more than 4p per minute from a BT landline. Calls from mobiles are usually more. Worried about the cost? Ask an adviser to call you back.
- Request a callback through our website [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk)
- Text 'legalaid' and your name to **80010** and we'll call you back within 24 hours.

## Help on the internet

If you have internet, our website [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk) has lots of help, including:

- our online directory of advisers, organised by areas of law
- more information about legal aid and who can get it
- online factsheets and leaflets that you can download, on lots of topics, and
- links to specialist organisations, charities and support groups in your area.

## Can I get legal aid?

Parents (and people with parental responsibility) can get legal aid for help with care proceedings however much money they have. But if you need help with the costs of legal advice for other problems or before care proceedings are started, you have to apply for legal aid. Whether you will get it will depend on:

- the type of legal problem you have
- your disposable (spare) income and how much disposable capital (money, property, belongings) you have
- whether there is a reasonable chance of winning your case, and
- whether it is worth the time and money needed to win.

There is an online calculator on our website, at [www.communitylegaladvice.org.uk/en/legalaid](http://www.communitylegaladvice.org.uk/en/legalaid) where you can see whether you could be financially eligible for legal aid.

### What if I think I am eligible?

If you think you could be eligible for legal aid, you should speak to a legal adviser who can deal with legal aid cases. You can search our directory to find an adviser in your area, at the 'Find a legal adviser' section of our website [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk) or call our helpline 0845 345 4 345.

# Help for other problems

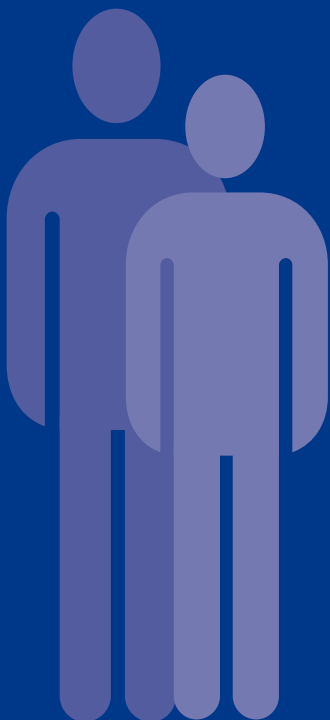
This leaflet is one of a series of free leaflets produced by Community Legal Advice giving easy-to-read advice on a range of problem areas. The leaflets in this series are:

- C1 Dealing with rent problems**
- C2 Domestic abuse**
- C3 Fair treatment at work: your rights if you are disabled**
- C4 Your rights at work**
- C5 Dealing with debt**
- C6 Losing your home**
- C7 Claiming benefits**
- C8 Problems with school**
- C9 Mental health laws**
- C10 Community care**
- C11 Divorce and separation**
- C12 Living together**
- C13 Medical accidents**
- C14 Dealing with the police**
- C15 Care proceedings**
- C16 Claiming asylum**
- C17 Removal and deportation**
- C18 Dealing with a will**

You can order any of these leaflets free by:

- phoning **0845 3000 343**
- faxing **0845 5438 258**, or
- emailing [orderleaflets@communitylegaladvice.org.uk](mailto:orderleaflets@communitylegaladvice.org.uk).

All these leaflets are also available in Welsh, Braille and Audio.



The Legal Services Commission manages the Community Legal Service and Community Legal Service Fund (legal aid). To find out more about us, visit [www.legalservices.gov.uk](http://www.legalservices.gov.uk)

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