

District Court Custody and Access Applications in the Dublin area Self help guide

This note is intended to assist persons who have decided to make a District Court application in the family court for custody or access to a child, without the assistance of a solicitor.

Step 1 –Starting the Proceedings

Most family law court cases in Dublin that involve custody and access to a child (and that do not also involve a judicial separation or a divorce) are heard in Dolphin House, East Essex Street, Dublin 2. You may already have started your custody / access application and you may already be aware of the date on which your application will be heard. If this is not the case you can attend the District Court office on the ground floor and they will start the case for you.

Step 2 – Preparing for the Hearing

It is important to remember that the Court (Judge) decides the case on the basis of the best interests of the child. Most Judges take the view that parents know what is best for their children and they will expect the parents to have tried to reach agreement in relation to the best arrangements, before they hear the matter.

If you are on any kind of speaking terms with your spouse / ex partner (and even if you are not) we suggest that you try and reach an agreement before the court hearing that is acceptable to both of you. When the matter comes before the Judge if he or she is not satisfied that you have made efforts to reach an agreement he or she could adjourn the matter to allow you to make those efforts.

The option of engaging in mediation or making an agreement with the assistance of legal advice is open to you. Mediation is a process where a third party (mediator) sits down with two parents and try to help them come to their own solution. Arriving at your own solution to difficulties that may have arisen is more beneficial in the long term for all parties involved.

There is a mediation service available in Dolphin House and the Legal Aid Board recommends that you get information about mediation before you pursue a court application in relation to your child.

If you are unable to reach agreement and you consider that court is the only option you should consider what evidence you can bring to the court that will assist your case. You should be careful about what evidence you produce. Most cases are decided on the basis of the evidence of the two parents and without formal evidence from other parties. If, for example, you have had a drug dependency problem which you

have overcome, you should bring with you whatever evidence you can to the effect that you are clear of drugs.

Step 3 – The Hearing

If the case does go to you court it will be heard in private. When you arrive at the courthouse you should locate the correct court room. Usually the Judge will read out the list of cases for the day at the start of the day with everyone present. He is likely to call your case by initials or by reference to the number which you will find on the court application. When your case is called you should tell the Judge that you are present and whether you are going ahead with your case. After the list is read through the judge then deals with the cases in private. The District Court Clerk comes out of the courtroom and calls out the initials of the cases. Sometimes a public address system is used.

If you have reached agreement when the case is called, both you and your spouse / ex partner enter the courtroom and tell the Judge what you have agreed. The judge will consider the matter and in all likelihood will make an order on the basis of what you have agreed.

If you have not agreed then generally you start by telling the Judge that you are looking for an order regarding access. The case will then proceed as directed by the Judge. Both of you may have to give sworn oral evidence and each of you may be given the option of questioning the other party.

If you fail to attend the court on the hearing date when your case is called it will be struck out (removed permanently).

If for some reason you cannot attend court you should let your spouse / ex partner know in advance and you should also contact the District Court Office to let them know. Your case may be postponed to another date if you do this.

If your spouse / partner does not attend, the Judge will decide whether he or she is satisfied that your spouse / ex partner has been properly served with the proceedings and is aware of the Court date. If the Judge is so satisfied, the case can go ahead and the Judge can make an order. The Judge may also postpone the case and ask the District Court Clerk to formally notify your spouse / ex partner of the new date.

Finally, remember when at the hearing to treat the Court and your spouse / ex partner with respect and avoid using bad language or behaving in a rude or threatening manner. It will not help your case if you behave like this.

Step 4 – After the hearing

You should keep a note of how the access order or agreement is working out. If your spouse / ex partner is not complying with what you have agreed without good reason, keeping a note of this will assist you should you wish to make a formal complaint to the District Court clerk.

Step 5 - Appeal

If you or your spouse / ex partner is not happy with the District Court decision, then you need to be aware that an appeal to the Circuit Court can be made within 14 days of the decision. If you want to appeal you should contact the District Court office and they should be in a position to assist you in serving and filing your appeal.