

FAMILY ORDERS

HOUSE RULES

May 2023

Introduction

1. All orders made by the Family Court and the High Court (Family Division) shall be in the standard forms as contained in Volumes 1 and 2.
2. Accordingly, when drafting orders, whether by consent or following a hearing, the standard order templates should be used, adapted as appropriate to the facts of the case.

Content of order (including recitals)

3. Recitals in a financial order shall appear at the beginning of the order. Recitals in a children order shall appear at the end of the order. Recitals must only record necessary information, drafted in as short and neutral a manner as possible. They should not record what happened in the hearing and should be limited to essential background matters which are not part of the body of the order. Any purported views of the court which did not form part of the court's decision should not be recited. The recording of a party's position before, during, or after the hearing as a recital should cease unless the standard order template requires such information.
4. The order shall not recite the documents which the court read, or the witnesses who were heard, save in a case where an order is made without notice, in which case the details shall be recorded in a recital.
5. Where an order is made without notice the reason for withholding any notice must be recorded in a recital. Where an order is made on short notice the reason for withholding full notice must be recorded in a recital.
6. Where a third party disclosure order or other order directed to a person who is not a party to the proceedings is made, that order should be drawn as a separate order rather than be contained in the main order from the proceedings. Each separate order should be directed to only one third party or person, and where there are a number of third parties or persons to which orders are directed, there should be a drawn a series of separate orders.
7. Where a separate order is made, the fact of the separate order having been made should be included in the body of the main order from the hearing, which should identify what the separate order was for and the date by which any information / evidence arising from that order is to be disclosed.

Format of order

8. The body of orders should always be prepared in Times New Roman font, 12 point, with single spacing.
9. An order shall be consecutively numbered from 1 irrespective of whether the paragraph in question concerns a definition, recital, agreement, undertaking or order. Where possible, and in any event as provided in the standard order templates, recitals in children cases should appear in a schedule to the order. The numbering of paragraphs in any schedule shall recommence as paragraph 1.
10. Subparagraphs, to two levels only, are permitted and shall be numbered (a), (b) etc, then (i), (ii) etc (with or without brackets).
11. So far as possible, the order should contain orders and directions in a chronological order, save that the directions in respect of the next hearings should appear at the start of the order.
12. An order shall state in its heading the statute(s), or European Regulation(s), or Protocol under which the powers in question are exercised. It shall not state that the inherent powers of the court are being exercised.
13. Parties:
 - a. The parties shall be specified at the beginning of the order.
 - b. The applicant for the relief in question shall be referred to in the order as the “applicant” and the respondent shall be referred to as the “respondent”. The parties shall not be referred to by their titles in the main suit (i.e. petitioner and respondent) save in respect of orders made in the main suit.
 - c. Children shall be referred to by their first forename and surname.
 - d. Each child shall be numbered as a separate respondent.
 - e. The children’s guardian shall be referred to as “the guardian”.
14. If a party acts by a litigation friend, or a child by a children’s guardian, this must be stated in the paragraph of the order detailing the parties to the proceedings.
15. Where a party was represented by an advocate, that advocate shall be named on the face of the order. Formality of naming should be preserved, with the advocate being identified as “Mr / Mrs / Miss / Ms etc. [surname]” or by their first name and surname. If the advocate is counsel, the order should so state.
16. Where a standard order template requires contact details to be inserted into the paragraph detailing the parties to the proceedings, those contact details shall be of the party if a litigant in person, or of the solicitors on the court record if the party is represented. Contact details for counsel should not be used.

Language

17. Clear English (or Welsh in Wales) should be used at all times. Archaic legal language (“the party of the first part”, “hereinabove”, “heretofore” etc.) should be avoided.

18. If definitions are required, they shall appear in the recitals. Abbreviations may be used.
19. In the body of the order, parties should be referred to by their status (e.g. “applicant” and “respondent”) rather than by their role in the proceedings (e.g. the mother, the father etc.).
20. Although not grammatically pure the plural pronoun “their” should be used in a singular sense instead of “his or hers”.
21. An obligation to do an act as provided for in an order shall be taken to include causing the act to take place. Thus the phrase “or cause to be paid”, does not need to be included in an order.
22. An obligation to do an act within a specified period shall state the actual date and time by which the act must be done.
23. Where a direction or order is for a party to do something, it must be directed to the party and not to their solicitor.
24. Dates shall be specified without ordinal possessives and must use the full name of the month and the year in full form (e.g. 17 May 2013 and not 17th May 2013 or 17/5/13 or May 17th, 2013 or “this 17th day of May 2013”). Times must be stated using the 24-hour format (e.g. 17:00 or 12:00, not 5pm or noon).
25. Distances should be specified metrically up to 1,000 metres. Beyond that distance either system, imperial or metric, may be used.
26. Monetary sums shall be denoted numerically, save that for sums expressed in millions the abbreviation “m” may be used. Other variants e.g. “M” or “millions” should not be used. Currencies shall be expressed by the usual symbols. Thus, for example, £, €, US\$ and A\$ should be used, not GBP, EUR, USD and AUD.