**In the Family Court Case No: [*Case number*]**

**sitting at [*Court name*]**

|  |  |
| --- | --- |
|  | **Occupation Order****Family Law Act 1996**  |
|  |  |  |  |
|  | The full name(s) of the child(ren) | Boy or Girl | Date(s) of Birth |
|  | [*insert*] | [*insert*] | [*insert*] |
|  | [*insert*] | [*insert*] | [*insert*] |
|  |  |  |  |

Before [*name of judge*] in private on [*date*] at a [*type of hearing*].

**IMPORTANT NOTICE TO THE RESPONDENT, [*RESPONDENT NAME*] OF [*RESPONDENT ADDRESS*]**

**YOU MUST OBEY THIS ORDER. You should read it carefully. If you do not understand anything in this order you should go to a solicitor, Legal Advice Centre or Citizens Advice Bureau. You have a right to apply to the court to change or cancel the order.**

**WARNING: ALTERNATIVELY, IF YOU DISOBEY THIS ORDER, YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED, OR HAVE YOUR ASSETS SEIZED.**

**The parties:** The applicant is [*name*] represented by [*name*] [of counsel]

The 1st respondent is [*name*], the [*relationship to child*], represented by [*name*] [of counsel]

## Definitions

1. The “relevant children” within the meaning of Family Law Act 1996 are:
	1. [*child full name*] (a [boy] / [girl]) born on [*date*];
	2. [*child full name*] (a [boy] / [girl]) born on [*date*];
	3. [*etc*].
2. [The “family home” is the property at [*full address*] [and its surrounding gardens, land and outbuildings]].

**(Most judges are happy to use the short form of a property address in the body of the order after a definition is given, and this is what we have done from here onwards. However some judges demand on the full address being used, especially if a litigant in person is involved/a penal notice is attached to the order. If that is the case you will need to add the full address throughout.)**

1. [“[*Property short name*]” is the property at [*full address*] [and its surrounding gardens, land and outbuildings]].

**(Most judges are happy to use the short form of a property address in the body of the order after a definition is given, and this is what we have done from here onwards. However some judges demand on the full address being used, especially if a litigant in person is involved/a penal notice is attached to the order. If that is the case you will need to add the full address throughout.)**

## Recitals

1. This is an occupation order made against the respondent [*respondent name*] on [*date*] by [*name of judge*] on the application of the applicant [*applicant name*].
2. **(covid recital)** The court determined that in the exceptional circumstances of the current national public health emergency this case is suitable for hearing remotely (“remote hearing”) by means of [*insert*].
3. **(Where the order was made without notice)** The judge read the following witness statement[s] [*insert*] and heard oral evidence from [*name(s)*].
4. **(Where the order was made without or on short notice)** This order was made at a hearing [without notice] / [on short informal notice] to the respondent. The reason why the order was made [without notice] / [on short informal notice] to the respondent was [*insert*]. The respondent has the right to apply to the court to vary or discharge the order – see paragraph [*para number*] below.

## Legal aid recitals - Family Advocacy Scheme (FAS)

1. The court records the following information for the purposes of the Family Advocacy Scheme (FAS):
	1. the advocates met for pre-hearing discussions between [*time*] and [*time*];
	2. the hearing started at [*time*] and ended at [*time*];
	3. the court allowed [*time*] thereafter for preparation and agreement of the order between [*time*] and [*time*];
	4. [*name of advocate*] is entitled to a bolt on because they are representing a client who is facing allegations that they have caused significant harm to a child and these are a live issue in proceedings;
	5. all advocates are entitled to a bolt on because an independent expert witness was cross-examined and substantially challenged by a party at the hearing; and
	6. the advocates’ bundle page count is [*number*].
2. Due to the parties’ remote attendance at court, the parties have referred the Court to The Civil Finance Electronic Handbook, which, at paragraph 6.11, states as follows: *"We do not require an advocate’s attendance form where a hearing is heard by telephone or video conference. In its place, the court order and attendance notes should be submitted to verify the hearing”.* For the avoidance of doubt, that is why the parties’ attendance times are recorded in the order as confirmation of the same.

## Prohibition of Cross-Examination in Person Qualified Legal Representative Scheme’ Funding Recital

1. The court has noted the following provisions for the Cross-Examination Qualified Legal Representative Remuneration Scheme:
	1. Heard before: [*judicial title/level of judge*]
	2. Hearing date: [*date*]
	3. Name of court-Appointed Qualified Legal Representative: [*name*]
	4. Name of court: [*court name*]
	5. Court type: [*court type*]
	6. Case type: [*case type*]
	7. Type of hearing: [Preliminary] / [Final] / [*insert other hearing with cross-examination*]
	8. Pre-hearing discussions began at: [*time*]
	9. Start time of the hearing: [*time*]
	10. End time, including time to agree an order: [*time*]
	11. TOTAL LENGTH OF THE HEARING (DEDUCT ANY ADJOURNMENT): [*hours and minutes*]
	12. [Bundle: [*number of pages*]]

## Undertakings given to the court by the applicant [*applicant name*]

1. **(Where the order was made without or on short notice)** [By [*time and date*] the applicant shall:
	1. issue an application notice [in the form of the draft produced to the court] [claiming the appropriate relief]; and
	2. file a witness statement [substantially in the terms of the draft witness statement produced to the court] [confirming the substance of what was said to the court by the applicant’s [counsel] / [solicitor]].
2. **(Where the order was made without or on short notice)** [By [*time and date*] the applicant shall use [his] / [her] best endeavours personally to serve upon the respondent] / [serve upon the respondent, by [*insert method of service* **(e.g. posting to the respondent’s usual address**)], together with this order:
	1. a copy of the application;
	2. copies of the witness statement[s] and exhibits containing the evidence relied upon by the applicant, and any other documents provided to the court on the making of the application; and
	3. a note [prepared by [his] / [her] solicitor] recording the substance of the dialogue with the court at the hearing and the reasons given by the court for making the order, which note shall include (but not be limited to) any allegation of fact made orally to the court where such allegation is not contained in the witness statement[s] or draft witness statement[s] read by the judge.]
3. The statement of service of this order on the respondent shall be filed at court and shall be in a form which complies with section 9 of the Criminal Justice Act 1967 [and shall include the following signed declaration:

*“This statement is true to the best of my knowledge and belief and I make it knowing that, if it were tendered in evidence, I would be liable to prosecution if I wilfully stated in it anything which I know to be false or did not believe to be true.”*]

**IT IS ORDERED (BY CONSENT):**

## Occupation Order – Declaration under Section 33 of the Family Law Act 1996

1. The court declares that the applicant, [*applicant name*], is entitled to occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings] as [his] / [her] home.
2. The court declares that the applicant, [*applicant name*], has home rights in [the family home] / [the property at [*Property short name*]], [and] / [or] the court declares that the applicant, [*applicant name*]’s, home rights in [the family home] / [the property at [*Property short name*]], shall not end when the respondent, [*respondent name*], dies or their [marriage] / [civil partnership] is dissolved and shall continue until [*date and time*] / [the determination of the applicant’s financial provision claims under case number [*number*] or a further order is made.

## Occupation Order under Section 33 of the Family Law Act 1996

1. The respondent, [*respondent name*], shall allow the applicant, [*applicant name*], to occupy [[the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [part of the property at [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings], namely [*specify part*]].
2. The respondent, [*respondent name*], must not occupy [[the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] [between [*specify dates and times*]].
3. The respondent, [*respondent name*], shall leave [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [*specify part of* [the family home] / [the property at [*property short name*]] by [*date and time*] / [within [*number hours/days*] of this order being personally served on [him] / [her] [and] / [or] of [him] / [her] being made aware of the terms of this order whether by personal service or otherwise].
4. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings] / [*specify part of the property*], the respondent, [*respondent name*], must not return to, enter or attempt to enter it [except that the respondent may go to the property [without entering it] for the purpose of collecting the relevant children for, and returning them from, such contact with the children as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
5. The respondent, [*respondent name*], must not obstruct, harass, or interfere with the applicant, [*applicant name*]’s, peaceful occupation of [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]].

## Occupation Order under Sections 35 and 36 of the Family Law Act 1996

1. The applicant, [*applicant name*], has the right to enter into and occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings], and the respondent, [*respondent name*], shall allow the applicant to do so.
2. The applicant, [*applicant name*], has the right not to be evicted or excluded from, and the respondent, [*respondent name*], must not evict or exclude the applicant from, [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] or any part of it [except for [*part of the property*]].
3. The respondent, [*respondent name*], must not occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] [between [*dates and times*]].
4. The respondent, [*respondent name*], shall leave [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] by [*date and time*] / [within [*number hours/days*] of this order being personally served on [him] / [her] [and] / [or] of [him] / [her] being made aware of the terms of this order whether by personal service or otherwise].
5. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings]] / [*specify part of the property*], the respondent, [*respondent name*], must not return to, enter or attempt to enter it [except that the respondent may go to the property [without entering it] for the purpose of collecting the relevant children for, and returning them from, such contact with the children as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
6. The respondent, [*respondent name*], must not obstruct, harass, or interfere with the applicant, [*applicant name*]’s, peaceful occupation of [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]].

## Occupation Order under Sections 37 and 38 of the Family Law Act 1996

1. The respondent, [*respondent name*], shall allow the applicant, [*applicant name*], to enter into and occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings] / [part of [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings], namely [*specify part*]].
2. The respondent, [*respondent name*], must not occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] between [*dates and time*].
3. The respondent, [*respondent name*], shall leave [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] [by [*date and time*]] / [within [*number hours/days*] of this order being personally served on [him] / [her] [and] / [or] of [him] / [her] being made aware of the terms of this order whether by personal service or otherwise].
4. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings]] / [*specify part of the property*], the respondent, [*respondent name*], must not return to, enter or attempt to enter it [except that the respondent may go to the property [without entering it]] for the purpose of collecting the relevant children for, and returning them from, such contact with the children as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
5. The respondent, [*respondent name*], must not obstruct, harass, or interfere with the applicant, [*applicant name*]’s, peaceful occupation of [[the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]].

## Additional Provisions which may be included in Occupation Orders made under Sections 33, 35 or 36 of the Family Law Act 1996

1. [The [applicant [*applicant name*]] [and] / [or] [respondent [*respondent name*]] shall maintain and repair [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings].
2. [The [applicant [*applicant name*]] [and] / [or] [respondent [*respondent name*]] shall discharge the [mortgage payments] / [rental payments] in respect of [the family home] / [the property at [*property short name*]].
3. [The [applicant [*applicant name*]] [and] / [or] [respondent [*respondent name*]] shall discharge the following outgoings in respect of [the family home] / [the property at [*property short name*]]: [*specify outgoings*].
4. The applicant [*applicant name*] shall pay to the respondent [*respondent name*] £[*amount*] each [week] / [month], for the use of [the family home] / [the property at [*property short name*]].
5. The applicant [*applicant name*] shall keep and use the [furniture] / [contents] / [*specify* **(if necessary)**] of the [the family home] / [the property at [*property short name*]].
6. The respondent [*respondent name*] shall return to the applicant [*applicant name*] the [furniture] / [contents] / [*specify* **(if necessary)**] of [the family home] / [the property at [*property short name*]] by no later than [*time and date*].
7. The applicant [*applicant name*] shall take reasonable care of the [furniture] / [contents] / [*specify* **(if necessary)**] of [the family home] / [the property at [*property short name*]].
8. The applicant [*applicant name*] shall take all reasonable steps to keep secure [the family home] / [the property at [*property short name*]] and the [furniture] / [contents] / [*specify* **(if necessary)**].

## Duration of Occupation Order under Section 33 of the Family Law Act / Power of Arrest

1. Paragraph[s] [*para number*] of this order shall be effective against the respondent [*respondent name*] once it is personally served on [him] / [her] [and] / [or] once [he] / [she] is made aware of the terms of this order whether by personal service or otherwise.
2. Paragraph[s] [*para number*] of this order shall last until [*date and time*] unless it is set aside or varied before then by an order of the court.
3. The respondent has the right to apply to the court at any time, [**(Where the order was made without notice)** and without waiting until the return date], to set aside or vary this order. [**(If appropriate)**The respondent must give [[*number* *of hours/days*] [written] notice of the application to the [applicant] / [applicant’s solicitors]]. If the respondent intends to rely on any evidence in support of [his] / [her] application to set aside or vary this order, [**(Where the order was made without notice)** or intends to rely on any evidence to oppose the continuation of the order at the return date], the substance of it must be provided in writing to the [applicant] / [applicant’s solicitors] in advance.
4. **(Where the order was made without or on short notice)** [If the respondent intends to oppose the continuation of the order on the return date [he] / [she] must notify the court / [applicant] / [applicant’s solicitors], [in writing or by email] no later than [*date and time*] that [he] / [she] intends to attend the hearing on the return date and to oppose the continuation of the order. If the respondent does not notify the court then the court may, if appropriate, make an order dispensing with the need for any attendance by the [applicant] / [applicant’s solicitors] on the return date and may, if appropriate, on the return date make an order extending the injunction.]
5. [A power of arrest is attached to paragraphs [*para number*] of this order.]

## Duration of Occupation Order under Sections 35 and 37 of the Family Law Act / Power of Arrest

1. Paragraph[s] [*para number*] of this order shall be effective against the respondent [*respondent name*] once it is personally served on [him] / [her] [and] / [or] once [he] / [she] is made aware of the terms of this order whether by personal service or otherwise.
2. Paragraph[s] [*para number*] of this order shall last until [*date and time* **(which must not be more than 6 months from the date of this order)**] unless it is set aside or varied before then by an order of the court.
3. Paragraph[s] [*para number*] of the occupation order made on [*date*] [is] / [are] extended until [*date and time* **(which must not be more than 6 months from the date of this extension)**] [unless it is set aside or varied before then by an order of the court.]
4. The respondent has the right to apply to the court at any time, [**(Where the order was made without notice)**and without waiting until the return date], to set aside or vary this order. [**(If appropriate)**The respondent must give [*number hours/days*] [written] notice of the application to the [applicant] / [applicant’s solicitors].] If the respondent intends to rely on any evidence in support of [his] / [her] application to set aside or vary this order, [**(Where the order was made without notice)** or intends to rely on any evidence to oppose the continuation of the order at the return date], the substance of it must be provided in writing to the [applicant] / [applicant’s solicitors] in advance.
5. **(Where the order was made without or on short notice)** [If the respondent intends to oppose the continuation of the order on the return date [he] / [she]must notify the court the court / [applicant] / [applicant’s solicitors], [in writing or by email] no later than [*date and time*] that [he] / [she] intends to attend the hearing on the return date and to oppose the continuation of the order. If the respondent does not notify the court then the court may, if appropriate, make an order dispensing with the need for any attendance by the [applicant] / [applicant’s solicitors] on the return date and may, if appropriate, on the return date make an order extending the injunction.]
6. [A power of arrest is attached to paragraphs [*para number(s)*] of this order.]

## Duration of Occupation Order under Sections 36 and 38 of the Family Law Act / Power of Arrest

1. Paragraph[s] [*para number*] of this order shall be effective against the respondent [*respondent name*] once it is personally served on [him] / [her] [and] / [or] once [he] / [she] is made aware of the terms of this order whether by personal service or otherwise.
2. Paragraph[s] [*para number*] of this order shall last until [*date and time* **(which must not be more than 6 months from the date of this order)**] unless it is set aside or varied before then by an order of the court.
3. [Paragraph[s] [*para number*] of the occupation order made on [*date*] is extended until [*date and time* **(which must not be more than 6 months from the date of this extension)**] unless it is set aside or varied before then by an order of the court, and must end on that date.]
4. The respondent has the right to apply to the court at any time, **[(Where the order was made without notice)** and without waiting until the return date], to set aside or vary this order. [**(If appropriate)**The respondent must give [*number hours/days*] [written] notice of the application to the [applicant] / [applicant’s solicitors.] If the respondent intends to rely on any evidence in support of [his] / [her] application to set aside or vary this order, [**(Where the order was made without notice)** or intends to rely on any evidence to oppose the continuation of the order at the return date], the substance of it must be provided in writing to the [applicant] / [applicant’s solicitors] in advance.
5. **(Where the order was made without or on short notice)** [If the respondent intends to oppose the continuation of the order on the return date [he] / [she] must notify the court [in writing or by email] no later than [*date and time*] that [he] / [she] intends to attend the hearing on the return date and to oppose the continuation of the order. If the respondent does not notify the court then the court may, if appropriate, make an order dispensing with the need for any attendance by the [applicant] / [applicant’s solicitors] on the return date and may, if appropriate, on the return date make an order extending the injunction.]
6. [A power of arrest is attached to paragraph[s] [*para number*] of this order.]

## Case Management Directions

1. [*Name*] has made allegations against [*name*] which are disputed.
2. By 4.00pm on [*date*] [*name*] must send to the court and the other party a statement giving details of the allegations, addressing the relevant criteria under the Act, setting out what order they seek, and attaching copies of any relevant documents they wish to use to support their evidence.
3. Permission to the applicant to file and serve a statement from [*witness name*] by 4.00pm on [*date*].
4. By 4.00pm on [*date*] [*name*] must send to the court and the other party a written response to the applicant’s statement.
5. Permission to the respondent to file and serve a statement from [*witness name*] by 4.00pm on [*date*].
6. Every statement must:
	1. start with the name of the case and the case number;
	2. state the full name and address of the person making it;
	3. set out what the person has to say in numbered paragraphs on numbered pages
	4. end with this statement: “I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth. I believe that the facts stated in this witness statement are true.” and
	5. be signed and dated by the person making it.
7. If a witness or party is unable to read the statement in the form produced to the court, the statement must include a certificate that it has been read or interpreted to the witness by a suitably qualified person. If a witness who has made a statement is to give evidence or be questioned and is unable to do so in spoken English (or Welsh if the hearing is in Wales), the party relying on that witness must ensure that a suitable independent interpreter is available.
8. Statements must be no longer than [*number*] pages of A4 paper, preferably typed in a font no smaller than 12pt and at no less than 1.5 in line spacing.
9. The statements should also be sent in electronic form if possible.

## Police disclosure

1. A separate order is made in relation to police disclosure by 4.00pm on [*date*].
**(use template order 10.3 for the police disclosure order)**

## Police disclosure - Protocol

1. The [applicant] / [respondent]’s solicitor must request police disclosure under the police protocol, and file and serve this upon the [respondent] / [applicant] and the court by [*date*].
2. The costs of the disclosure are to be [shared equally between the parties] / [paid for by the [applicant] / [respondent]] [and are deemed to be a reasonable, necessary and proportionate disbursement on the [applicant] / [respondent]’s Legal Aid Certificate].
3. The [applicant] / [respondent]’s solicitor is permitted to disclose a copy of this order to [*police force*] Police for the purposes of the request for disclosure under the protocol.

## Disclosure of this order

1. Permission is given to the parties to disclose this order, redacted to remove any parts of the order not relevant for the purpose of such disclosure, to any third party from whom information/reports/evidence is directed.

## Participation directions / Ground Rules / Special Measures

1. The [applicant] / [respondent] has made [an] allegation[s] of domestic abuse. The [applicant] / [respondent] is therefore vulnerable for the purposes of FPR Part 3A and their participation in the proceedings is likely to be affected.
2. The court considers that it may be necessary to make participation directions in respect of a party or witness.
3. The court has concluded that [*name*] is [vulnerable] / [a protected party] and that [his] / [her] participation in the proceedings is likely to be affected because:
	1. it is alleged that [*name*] is the victim of domestic abuse;
	2. the court considers that the quality of evidence given by [*name*] is likely to be assisted by the services of an intermediary who can facilitate and enable communication and understanding of questions to and answers by a witness or party;
	3. [*insert other reason*]*.*
4. If they have not already done so, any party who considers that specific measures need to be taken to enable a party or witness to understand the proceedings and their role in them when in court, put their views to the court, instruct their representatives before, during, and after the hearing or attend the hearing without significant distress should file an application notice and include the following information as far as practicable:
	1. why the party or witness would benefit from assistance;
	2. the measure or measures that would be likely to maximise as far as practicable the quality of their evidence or participation and why;
	3. written confirmation from any relevant witness of his/her views.
5. The court has concluded that there are currently no parties or witnesses for whom it is necessary to make participation directions because:
	1. no matters have been drawn to the attention of the court and it is aware of no reasons which would lead it to conclude otherwise;
	2. it has considered the matters adduced by [*name*] and concluded that the facilities available at court should afford sufficient protection.
6. [*Name*] must by 4.00pm on [*date*] ask [*name of intermediary provider*] to provide a quotation for the supply of services in the form of a preliminary assessment to include necessary preparative work and, if required, intermediary services and necessary preparative work for the ground rules hearing and final hearing and the following directions apply:
	1. the quotation must be sent to HMCTS for the attention of the court manager by [*date*];
	2. HMCTS must confirm acceptance of the quotation and payment of intermediary services within 7 days after receipt of the quotation;
	3. the case will be listed for a ground rules hearing at [*time*] on [*date*] allowing [*time estimate*];
	4. [*Name of intermediary provider*] must file a preliminary assessment by [4 weeks after confirmation of payment of services by HMCTS] / [*date*] and shall attend, if required, the subsequent hearings;
	5. any default in compliance with these directions shall be brought to the attention of the case management judge on 48 hours’ notice to all parties.
7. The following measures are to apply to all hearings in this matter unless otherwise ordered. They must also be set out clearly in a separate schedule headed ‘Measures which apply in case number [*case number*]’ which is to be placed prominently on the case file and provided by the court office to security and the court usher for each hearing.

Measures are to be taken to:

* 1. provide separate entrances to, and waiting areas in, the court building for [*name(s)*];
	2. prevent [*name*] from seeing [*name*] whilst within the court building or its precincts;
	3. make sure that [*name*] is to arrive at court no later than 30 minutes before the hearing and is to report to [court security] / [the usher] immediately on arrival;
	4. security and the court staff must liaise to make sure that the parties do not meet except when they are in the hearing room;
	5. neither party is to approach the other directly;
	6. allow [*name*] to participate in hearings and give evidence:
		1. by live link;
		2. by a recording made [and transcribed] in advance of the hearing;
		3. with the aid of a [signer] / [*other*];
		4. by use of evidence already given in other proceedings, namely [*give details*];
		5. [*other*].
	7. provide for [*name*] to:
		1. use a [*identify aid*] to help communicate;
		2. participate in proceedings with the assistance of an intermediary;
		3. be questioned in court with the assistance of an [Qualified Legal Representative / intermediary];
	8. provide for all hearings to take place in a courtroom;
	9. ensure in relation to any questioning of [*name*] that:
		1. questions or topics are agreed prior to the hearing;
		2. any questions that [can be] / [have been] put by one advocate may not be repeated by another without the court’s permission;
		3. questions may be put by [one advocate] / [the judge] only;
		4. [example] questions [from each topic to be put] are provided in writing in advance of the hearing so that [the intermediary can consider whether they will be understood by the witness] / [they can be put by the judge];
		5. [*other*].
1. The court has made these participation directions for the following reasons:
	1. they are a proportionate way to meet the apparent needs of [*name*];
	2. they protect both parties from coercive conduct or false allegations of coercive conduct;
	3. [*other reasons*].

1. These participation directions have been made by the court without receiving representations from all parties. An application may be made to set aside, vary or stay them provided it is issued within seven days of service of this order.
2. The court considers that a measure under Family Procedure Rules rule 3A is necessary but the measure is not available to the court because [*insert reasons*].
3. The participation directions given on [*date*] are [revoked] / [varied] as follows: [*insert details*] because [*give reasons*].
4. All parties’ legal representatives are expected to be familiar with and to use the techniques employed by the toolkits and approach of The Inns of Court College of Advocacy. The toolkits are available at https://www.theadvocatesgateway.org/toolkits-1-1-1

## Prohibition on cross examination in person and consideration of appointing a qualified legal representative

1. The court has determined that an automatic prohibition on cross examination applies under the Matrimonial and Family Proceedings Act 1984 (MFPA) because:

**(Select relevant subparagraphs)**

* 1. **[Section 31R:** The vulnerable party is the victim of a specified domestic abuse offence perpetrated by the other party;]
	2. **[Section 31S:** The vulnerable party is protected by an on-notice protective injunction against the other party;]
	3. **[Section 31T:** The vulnerable party adduces specified evidence that they are a victim of domestic abuse perpetrated by the other party.]

**(or)**

**[Under Section 31U of the MFPA**, it appears to the court that the quality of the party’s evidence on cross-examination is likely to be diminished if the cross-examination is conducted in person, or if the conduct of cross-examination in person would cause significant distress to a party, and it would not be contrary to the interests of justice to make the direction.]

1. The [*applicant*] / [*respondent*] must notify the court by 4.00pm on:
	1. whether, in their view, there are suitable alternative means of cross-examination; and
	2. should the court determine that there are no suitable alternative means of cross-examination, whether they intend to appoint their own qualified legal representative.
2. The file is to be referred to Judge [*name of judge*] on [*date* **(following deadline for filing the response set out above)**] to consider whether it is necessary for the court to appoint a qualified legal representative to conduct cross examination on behalf of either party.
3. If [*name*] does intend to appoint their own qualified legal representative for the purpose of cross-examination, they shall provide the name and contact details of that person no later than [*date*].

## Appointment of a qualified legal representative

**(insert the following recital into the order)**

1. The court has considered whether it is necessary in the interests of justice for the witness(es) to be cross-examined by a qualified legal representative(s) and concluded that it is necessary to appoint such a qualified legal representative(s) to conduct the cross-examination.

**(within the body of the order)**

1. The court is to appoint a qualified legal representative on behalf of [*name of person prohibited from questioning*] for the hearing[s] listed on [*date*] at [*time*] at The Family Court sitting at [*court name*].
2. Permission is given to the qualified legal representative to attend the [preliminary hearing] / [ground rules hearing] remotely if doing so means a qualified legal representative who could not otherwise act can be appointed.
3. The court is authorised to share the contact details of [*name of person prohibited from questioning*] with the court-appointed qualified legal representative.
4. **[*Name of person prohibited from questioning*] must notify the court, the other parties, and the court-appointed qualified legal representative straight away if at any time they become legally represented in these proceedings.**
5. The case must be returned to the [judge] / [magistrates] for further directions if after 28 days the court has not succeeded in appointing a qualified legal representative.

**(this direction may alternatively go in the main case management order made at the ground rules hearing or another preliminary hearing)**

1. [*Name of person prohibited from questioning*]shall by 4.00pm on [*date not later than 3 working days before the hearing*] file at court a written list of the questions that they wish to have asked prior to the main hearing. The list shall also be sent to the qualified legal representative, but must not be sent to the witnesses or other parties.

**(this direction should be made at the ground rules hearing or earlier preliminary hearing)**

1. [*Name of person prohibited from questioning*]shall by 4.00pm on [*date*]file at court and serve on the parties a clear statement shortly stating the allegations, facts or findings that they seek to establish.

## Cross-examination provisions (court bundle/court file)

1. The [[applicant] / [respondent]’s legal representative] / [court] shall send the full court bundle or such parts of the court bundle as the court directs to the court-appointed qualified legal representative by [*date*].
2. Where there is no court bundle, [the court] / [HMCTS] will prepare and provide the qualified legal representative with the full court bundle or such parts of the court bundle as the court directs by [*date*]. The court will provide the **final** court bundle or such parts of the court bundle as the court directs to the qualified legal representative 7 days before the hearing with cross-examination.

## Termination of qualified legal representative

1. The appointment of [*name*] as qualified legal representative is terminated on [*date*] at [*time*].

## Hearings

1. [The application[s] [is] / [are] listed for a further [directions] hearing in the Family Court sitting at [*name*] / [*place*] on [*date*] (‘the return date’). At the hearing on the return date, the court will reconsider the application and decide whether [the order should continue] / [the application should be granted and the order should be made] (time estimate: [[*number*] days]). If the respondent does not attend on the date and at the time shown the court may make an order in [his] / [her] absence.]
2. [The application[s] [is]/[are] listed for a final hearing in the Family Court sitting at [*court name*] / [*place*] on [*date*]. At the hearing, the court will reconsider the application and decide whether [the order should continue] / [the application should be granted and the order should be made] (time estimate: [[*number*] days]). If the respondent does not attend on the date and at the time shown the court may make an order in [his] / [her] absence.]

## Costs

1. The costs of this application are [reserved to the judge hearing the application on the return date] / [in the application] / [*specify*].

Dated [*date*]

**(Where undertakings have been given)**

**Notice**

You [*applicant name*] may be held to be in contempt of court and imprisoned or fined, or your assets may be seized, if you break the promises that you have given to the court.

**Statement of understanding**

I understand the undertakings that I have given, and that if I break any of my promises to the court I may be sent to prison, or fined, or my assets may be seized for contempt of court.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*applicant name*]

**Notice**

You [*respondent name*] may be held to be in contempt of court and imprisoned or fined, or your assets may be seized, if you break the promises that you have given to the court.

**Statement of understanding**

I understand the undertakings that I have given, and that if I break any of my promises to the court I may be sent to prison, or fined, or my assets may be seized for contempt of court.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*respondent name*]

**(where the court has made an occupation order with a power of arrest a copy of the order must be delivered to the officer in charge of the police station for the applicant’s address, or such other police station as the court may specify, and must be accompanied by a statement showing that the respondent has been served with the order or informed of its terms: see fpr 2010, rule 10.10.)**

**Communications with the court**

All communications to the court about this order should be sent to –

[*court name*]

[*court address*]

Email: [*court email*]

Tel: [court telephone]

**Name and address of applicant’s legal representatives**

The applicant’s legal representatives are –

[*applicant firm name*][*applicant firm address*]

Ref: [*applicant solicitor ref*]

DX: [*applicant firm DX address*]

Email: [*applicant firm email*]

Phone: [*applicant firm telephone*] (office hours)

 [*applicant firm telephone (out of hours)*] (out of office hours)

Fax: [*applicant firm fax*]