

Can I talk about my case outside court?

A guide for family court users

About this leaflet

This leaflet is for people who are parties to family proceedings concerning children. It explains:

- why there are rules about talking about a case outside court
- when you can talk about your case, and
- how you can share information about your case safely.

It also gives information on what happens if someone talks about a case when they shouldn't.

This leaflet does **not** apply to **placement** and **adoption proceedings** or to **parental orders applications** (under the Human Fertilisation and Embryology Act), where different rules are in place.

Are there rules for talking about a case outside court?

Yes. There are rules about what you can say about your case outside court to protect the people involved in your case – particularly children.

We have recently changed the rules to make it easier for people to talk about their case and share documents relating to their case. This way, they can get appropriate advice and support at the right stage of their proceedings.

The changes mean you can now discuss and share information about your case more widely.

The changes also mean that other parties involved in the proceedings can tell people about the case. They can also share information that you have provided in the proceedings without asking for your agreement.

Sharing information about a case is sometimes called 'disclosure of information' or 'communication of information'.

When can I talk about my case?

You can only talk about your case in these circumstances:

- You can discuss anything about your case with your legal representatives and with other parties involved in the case. You can also talk to experts, Cafcass officers, Welsh family proceedings officers, and children's Guardians involved in the case.
- You can also talk to any person you think is appropriate for these specific reasons:
 - to get advice and assistance to help you present your case, or to get support during proceedings – although the discussions between you and the person you ask for the advice and assistance must be confidential
 - to get mediation or help to resolve a disagreement between yourself and another party involved in the case, or
 - to pursue a complaint you have made, or want to make, about the proceedings or someone involved in them (such as an expert witness).

If you want an expert, for example a child psychologist, to help you with your case, you must get permission from the court before you ask the expert to provide any evidence that you might want to use in court, or before you use the expert's help, in this case, in any other way.

What can I say about my case?

You can share any information about the case with the people mentioned above, except a draft judgment (one which hasn't yet been finalised and formally given by the court). This includes written information about your case, or anything that was discussed inside or outside of court. This means you can share information contained in:

- documents on the court file
- evidence given in court, such as statements in a document or given in response to questioning
- reports
- the judgment, or
- any reasons given by the judge or magistrates for the decisions and orders they make.

The people or organisations you talk to can only use the information you tell them for the reason they received it – for example for mediation purposes. If they use the information for other purposes they could be in contempt of court and could face punishment by the court.

Always respect the privacy of the people involved in your case before sharing private information about them.

Can I talk about my case for any other reasons?

If you want to talk about your case for a reason not covered in this leaflet, you should ask your legal representative what you can say and who you can talk to. This is because there are some other specific situations where you are allowed to talk about your case – although in these circumstances you are quite limited by particular rules as to what you can say and who you can talk to. If the reason you want to talk about your case is not covered by a specific situation, you will need to get permission to talk about it from the judge.

If you are representing yourself, **you** should ask the judge whether you are allowed to share information in the way you want. You should not talk about your case until you have had legal advice, or discussed the matter with the judge.

If you want to talk about your case for a reason not mentioned in this leaflet, you will need to ask the court for permission first.

Who can talk about my case?

Any party involved in the court proceedings can talk about your case in the ways described in this leaflet. For example:

- a parent
- the local authority in care proceedings, or
- a child, if they are a party to the proceedings.

They may talk about the case in person or through their lawyer.

They can only talk about your case in the circumstances described on page 2. If they need the judge's permission to talk about the case (see above), you will be given the opportunity to tell the court whether you think permission should be granted.

What about the media?

The media can attend family proceedings in any court. However, there are restrictions on what they can report – for example, they may not always be able to publish details of what happened in court and what was said in evidence – especially in cases involving children.

For more information, read ***Can the media attend my court case?*** or visit www.hmcourts-service.gov.uk

Can the person I talk to discuss my case with anyone else?

If you have talked to someone about your case for the purposes of mediation or investigation of a complaint, the person you talked to might want to pass your information on to someone else to help you resolve your problem or complaint. This is called 'onward disclosure'. They will have to ask you to agree to allow them to do this. You can give your agreement verbally or by writing it down. However, it is better to put your consent in writing so that there are no misunderstandings about what was agreed. If your reason for talking to someone about your case was only to get advice or assistance, that person cannot talk to anybody else about what you told them.

If the third party wants to onwardly disclose your information, they can only do so for the same reason that they were given the information – but they will need your agreement first. This also applies to the people the third party shares the information with.

Information can also be onwardly disclosed for training purposes. However, the person who discloses your information for this purpose must make sure that you and the other people involved in your case cannot be identified under any circumstances – unless they have permission from all parties involved.

If you had to get permission from the judge to share information

If you had to get permission from the judge to talk about your case (see page 3), you will need to ask the court whether they will allow the person you talked to about your case to onwardly disclose the information, and if so how they can do this.

Remember...

You should bear in mind that other parties involved in the proceedings can tell people about the case and share information you have provided in the proceedings without asking for your agreement. This information can also be onwardly disclosed without your consent.

You, and the people you share information with, cannot share information about your proceedings to the public at large, or to a section of the public under these rules. If you, or another person, want to publish information about the proceedings to the public, you will need to seek the permission of the judge.

The court can authorise or restrict the disclosure of information in any case. If you have concerns about information being disclosed by someone else, you should ask the court to consider restricting the disclosure of information.

How can I share information about my case?

You can share information about your case verbally or by writing it down. This includes sending documents to someone by post or email. However, you cannot share information via web forums or blogs as this would make the information available to the public. The rules only allow you to talk about your case with individual people or organisations – they do not allow you to share information with the public in general, or a section of the public.

How can I share information about my case safely?

It is essential that you share information about your case in a safe way. This is because the information may contain very personal or sensitive details about you or another party involved in the case, including children. Also, if you share information in a way that is not permitted by law, you could be in contempt of court, or even have committed a criminal offence. This could expose you to the risk of serious penalties.

Here are some simple guidelines to follow when talking about your case:

- If you are sending information by post or by email, make sure the person you are sending it to is identified by name. You should also mark the information 'private and confidential'. Don't send an email to an organisation's general contact address.
- Make sure the person you are sharing the information with understands why they are receiving it and that they can only use the information for the reason they receive it.
- Make sure that person also understands whether they can share the information with other people, and whether they need your permission to do so. It is a good idea to communicate this information in writing so that it is clear to both of you.
- Keep an accurate record of what documents you have shared, including the name, job title and contact details of the person you shared them with. You should also make a note of the reason you decided to share the information with them, and what you told them about onward disclosure.

What happens if someone talks about a case when they shouldn't?

If someone talks about a case when they shouldn't, you should tell the court straight away. You should give as much information as you have about:

- what that person said
- who they talked to
- what they know about the case, and
- what documents they have.

If the person is someone you have talked to about your case, you should also tell the court about:

- any communication you had with that person
- the reason or reasons you talked about your case with them, and
- if you gave your permission for onward disclosure of information.

If someone talks about a case when they shouldn't, they may be in contempt of court. Talking about a case can also increase the risk of publicity. Therefore, if you know that someone has talked about a case when they shouldn't, you should tell the court as soon as possible to protect the people – particularly children – involved in the case.

Where can I get more information?

For more information on talking about your case outside court, visit www.hmcourts-service.gov.uk

About us

Her Majesty's Courts Service (HMCS) is an executive agency of the Ministry of Justice. We work as part of a system aiming to deliver justice effectively and efficiently to the public. We are responsible for managing the magistrates' courts, the Probate Service, the Crown Court, county courts in England and Wales, and the Royal Courts of Justice where the majority of High Court and Court of Appeal cases are heard.

For more information, visit our website www.hmcourts-service.gov.uk.

For people with a disability

If you have a disability which makes going to court or communicating difficult, please contact the Court Customer Service Officer at the court concerned who may be able to help you. You can also contact the HMCS Disability Helpline free on 0800 358 3506 between 9am and 5pm, Monday to Friday. If you are deaf or hard of hearing, you can use the Minicom service on 0191 478 1476.

If you need this leaflet in an alternative format, for example in large print, please contact your local court for assistance.

You can find contact details for all of our courts at www.hmcourts-service.gov.uk/HMCSCourtFinder/