

Getting The Most Out Of This Book

Introduction

This book is intended to be a useful starting point for those who are trying to navigate the Family Courts without the benefit of a lawyer. It will not give you all the answers you need in every circumstance but it should give you a frame of reference so you can understand what is happening and what approach you should take. Handling your own court case can be like stepping into a totally alien world, where you don't understand the language and everyone is playing a game but they haven't told you the rules – your future and your family is not a game, but you do need to understand the basic rules before you can participate effectively.

This book is not the same as legal advice. It is an attempt to give you sound guidance about how things work generally but each case is different, so whilst this book may be a reasonable alternative to legal advice where you cannot afford a lawyer it is not a substitute for it. I've had to strike a balance between being clear and precise about what the law says and providing too much detail which can be confusing and can make matters worse. The book covers the things that Litigants in Person are most likely to come up against but it doesn't (and can't) cover all possible eventualities or scenarios.

I hope this book will equip you with the tools to go away and research more specific information or seek more detailed advice from a range of sources. Use this book in tandem with the internet. It should make you feel a little more self confident when you step into the Court building.

There is a lot of information in this book, but do not feel you have to know it all off by heart or even that you need to read every chapter, or read them in any particular order. Try to operate according to the following:

- Do not get too hung up on procedure – Family Courts are really quite flexible and will allow a certain amount of leeway to a litigant in person who uses the wrong form or who doesn't know all the jargon. You don't need to memorise everything in this book about the Court process, but knowing roughly what process you need to follow should allow you to focus on the important part of your case – the facts and the outcome. Similarly, don't waste your time trying to score technical points against your ex (it certainly won't help and it may even do your case harm).
- Don't expect the law to tell you the answer – in most cases the only law that matters will be either s25 of the Matrimonial Causes Act 1973 or s1 of the Children Act 1989. All either of those will tell you is what factors the Court has to consider before it makes a decision. In essence the Court has to consider everything that is relevant, weigh it

up and do what it thinks is fairest, and where children are involved what is in the best interests of the child or children. Acts of Parliament don't tell either the Judge or you what the outcome should be. Judges have a very wide discretion to make decisions.

- Be wary of case law - case law (judgments given in other cases) can tell you what other courts have done in other cases, but as the facts of each case are a little bit different, what the Court has done in one case does not necessarily apply to your case. It can be hard to draw the right conclusion from case law if you are not experienced or if you do not have access to the full range of cases and it is easy to misunderstand what the case law is telling the Judge to do. If in doubt, go back to first principles - s25 Matrimonial Causes Act 1973 or s1 Children Act 1989. Some of the most useful and important cases are listed in the Table of Cases in the Toolkit & Resources, and are noted throughout the book.
- Research thoroughly but don't overdo it. Do not come to court with twenty different judgments – you won't be able to remember what they say, the Judge won't have time to read them, and they will distract you and the Court from the real issues. Do give some consideration to how reliable your source is. If you are looking up the law on the internet check that it is up to date. If you are relying on a case, check that there is no other case saying the exact opposite. Keep reminding yourself of the checklists in the statutes and make sure you haven't gone off on a wild goose chase.
- Seek advice when you need it. Everyone benefits from a reality check from a fresh pair of eyes once in a while, even if it's not a lawyer (Chapter 4 gives you some more suggestions. See also the rules on confidentiality in Chapter 11). Lawyers and Judges do this too when they can't see the wood for the trees. It's no failing to acknowledge this may be helpful to you too. If you are getting bogged down consider what other sources of support and guidance you can access.

This book is written to be useful for a range of people and perspectives – mums, dads, husbands, wives, partners, wider family members. There is lots of information available that focuses on things from one perspective or the other, and in particular a lot of material that focuses on things from a “Father's rights” or dad's perspective. There is value in that type of material, but this book takes a broader approach – if you understand your case from all angles and all perspectives you will run it more effectively, regardless of what your own particular angle is. One of the first things that young lawyers learn is that, to be as effective and as persuasive as possible in court proceedings, you need to understand all the arguments for your position or view, AND all the arguments against it. You need to go around the back of the case, imagine you are the lawyer for your ex, identify the weaknesses in your own position and

deal with them – very few cases are completely black and white. This book will help you (whoever you are) see your case in the round, in the way that the Judge will when coming to the case. That should benefit men and women equally. Rights-based guidance - guidance that is focussing on *your rights* and *why you are right* – can cause you to miss crucial considerations, and can leave you unprepared, unsuccessful and unhappy. This book is about finding practical ways of achieving your goals. It isn't meant to be a manifesto or critique of the system. This book is not legal advice and should not be treated as such.

How this book is put together

The book is divided into seven parts.

- Part 1 explains the basics of how the Court and legal system fit together.
- Part 2 gives you some general practical guidance about courts and court procedure and tips on how to manage your case.
- Parts 3, 4 and 5 each deal with a particular type of case, starting with an overview of the law in that area and then a more practical look at how that type of case works.
- Part 6 deals with some of the things that come up later on in a case.
- Part 7 is your toolkit.

The book will give you the most benefit if you use it in conjunction with the numerous resources available freely on the internet. But it is not essential: the core of what you are likely to need is contained in this book, and for many readers some of it will not be needed at all.

All websites referred to in the book are listed in the Part 7, Internet Resources chapter and specific links will be contained on the website associated with this book. Although I have only included websites that I think are likely to be reliable, it is up to you to make sure that those websites are still up to date, and to form a judgment about their contents.

This book does not always regurgitate the precise wording of the law because it is meant to be a manageable and easy to use guide for non lawyers. Often the law is rephrased or summarised. Where I have used an exact phrase or term that comes directly from the law this is in **bold**. References to the piece of law that is being described are at the end of the sentence in question [in square brackets like this] so that if that particular piece of law comes up in your case you can look up the exact wording using the internet (you might not always need to do this).

Any forms referred to are available for download on the Justice website (or collection from your local court office). They can usually be completed on your computer and printed (but not saved). It is better to fill in a draft by hand and

only type in your final answers when you are sure you are ready to finalise and print. Always print 3 copies of everything.

This book tries not to use too much legal jargon. Any legal words or abbreviations are explained in the Jargon Buster in the Toolkit & Resources. I have marked a word in small capitals like this - CASELAW - to show that it is defined in the Jargon Buster, but I have not done this for words which appear a lot. Generally a word will be written in small capitals the first time it comes up in each chapter.

I look at families with an open mind and whilst I recognise that certain scenarios often occur along gender lines, I try not to make assumptions about people's gender roles. I use "he" and "she" interchangeably in this book because Judges, lawyers, caring parents and breadwinners can be male or female, although in fact they do not fulfil these roles in equal numbers. Sometimes I describe a scenario where people are occupying "traditional" gender roles, but even if I do not spell it out each time you can assume that if the man and woman were in each other's shoes the outcome and approach should be the same.

The information in this book covers the law in England & Wales, although there are some minor distinctions between English and Welsh law which are not covered. It does not apply to Scotland or Northern Ireland where the law is different.

The information in this book is as up to date as possible at the time of going to print. Updating information may be available online from time to time at www.nofamilylawyer.co.uk or on my blog Pink Tape.