

Single Family Court

Changes made by legislation

Changes made by the Crime and Courts Act 2013

issue	situation post	legislation
Location of sittings	Sittings may be held at any place in England and Wales	s31B MFPA ¹ 1984
Judges of the high court	Judges include High Court judges (HCJs), Circuit Judges (CJs), District Judges (PRFD), District Judge (Magistrates Courts), District Judges (DJs), lay justices, various deputies and tribunal judges. The full list is at s31C MFPA 1984.	s31C MFPA 1984
Family court powers	In any proceedings in the family court, the family court may make any order which could be made in the county court or the High Court, if the proceedings were in those courts. (Who may grant those orders may be subject to restrictions in the Family Court (Composition and Distribution of Business) Rules 2014.	s31E MFPA 1984
Writs and Warrants	The family court may issue a warrant containing provision to that which may be contained in a writ. But it cannot issue a writ. The High Court can issue a writ.	s31E MFPA 1984
Powers of the court under other Acts	The family court has powers under sections 33, 34, 37 and 70 of the Senior Courts Act 1981, and sections 57 and 71 of the County Courts Act 1984. Examples of these powers include - <ul style="list-style-type: none"> - powers exercisable before commencement of action - power to order disclosure or inspection of documents or property of a non-party - power to grant injunction or appoint receiver - power to order documents to be executed or indorsed - assessors - evidence of prisoners - powers as to payment of costs 	s31J MFPA 1984
Witness summons	The family court has power to issue a witness summons, and to commit for one month/fine £2,500 if a witness refuses to attend or be sworn.	s31F MFPA 1984
Affidavits of evidence	Affidavits sworn before any judge or officer of the court may be sworn without a fee	s31F MFPA 1984

¹ The Matrimonial and Family Proceedings Act 1984

Transfer to High Court	The High Court may, at any time it thinks desirable, transfer from the family court proceedings or part of proceedings in the family court. There is no appeal against that decision.	s31I MFPA 1984
Appeals	Appeals lie to the Court of Appeal unless otherwise specified in an Order made under s56(1) Access to Justice Act 1999.	s31K MFPA 1984
	There are to be no appeals against decisions relating to transfer-no order is being made by the LC to enable there to be any appeals.	
	Judges must, on request of parties at a hearing of proceedings against which an appeal is possible, provide a note of any question of law raised at the hearing, of the facts in evidence in relation to such question, and the court's decision on any such question and of the court's determination of the proceedings. This note is to be made available to all parties on application and payment of the fee (if any) under s92 Courts Act 2003.	
Enforcement	Fines or penalties imposed by the court may be enforced in the same manner as a judgment of the court for the payment of money.	s31L MFPA 1984
	Rules of court may make provision for the family court to recover payments under multiple orders against the same person for periodical payment to be heard in the same proceedings. The court may also apportion any payments under these orders between the various orders.	
	Sums or periodical payments to a child may be paid to the person who looks after that child, and that person may proceed in their own name for the variation etc and recovery of those payments. Other similar provisions apply in this area.	
Justices' clerks	The functions of a justices' clerk include giving advice to lay judges of the court about matters of law, and bringing to the attention of lay judges at any time any point of law or procedure which is relevant. The Lord Chancellor can make rules, after consultation with the FPRC, and with agreement of the LCJ or his nominee. authorising justices' clerks and their assistants to perform functions of the court or of a judge of the court. (See below re: rules made under this power.)	s31O MFPA 1984
Court designation	Court buildings currently designated to deal with forced marriage, divorce, separation of civil partnerships, adoption and inter-country adoption will no longer be designated by legislation. Instead cases will be allocated to the appropriate level of judge and the President and HMCTS will issue guidance on how cases will get to the appropriate court buildings.	Revocation of Allocation and Transfer of Orders Act 2008 plus amendment to primary provisions.

Changes made by the secondary legislation

issue	situation prior	situation post	legislation
<i>Appeals</i>			
Permission filter	No permission needed to appeal decision of DJ(MC).	Permission to appeal against the decision of a DJ(MC) will be required.	Section 54 Access to Justice Act 1999 Amendments to Part 30 of the FPR 2010 ² and to supporting PD 30A
Time limits	Time limit for filing notice of appeal is period which may be directed by the court which made the decision which is being appealed or where no direction 21 days from date of that decision.	Seven days from the date of the case management decision being appealed throughout the family court otherwise appeal periods remain as now.	Amendments to Part 30 of FPR 2010 and to supporting PD 30A
DJ(PRFD) appeals	Appeals from DJPRFD are to High Court Judge in accordance with Access to Justice Act (Destination of Appeals) (Family Proceedings) Order 2011.	Appeals against decisions of DJ(Principal Registry of the Family Division) lie to judge of CJ level except in financial matters, where they lie to judge of HJ level sitting in the family court.	Section 31K of the MFPA 1984(general right of appeal) and section 13(2A) of the AJAct 1960(contempt); The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2014 ; and Rules made under section 31D of the MFPA 1984 relating to allocation and distribution of business
Re-consideration of allocation	Currently questions re allocation relate to which court proceedings are allocated to, not level of judge within the same court. Currently situations where a party may be dissatisfied with court to which proceedings are allocated are limited due to, for example, article 5(1) and (2) of the Allocation and Transfer of Proceedings	Where allocation is decided without a hearing applicants should apply to the court for a review at a hearing (if possible at hearing already planned rather than a unique hearing on the matter) and not appeal.	New Rule 29.19 FPR 2010 and PD 30A (Appeals Practice Direction)to seek review not appeal where dissatisfied with decision made without a hearing which is in line with existing CA authority

² Family Procedure Rules 2010

	Order 2008 which list proceedings which must be started in the magistrates' court.		
Factors for granting permission	There are currently no express factors which the court must take into account when considering whether to give permission to appeal a case management decision.	Factors are provided for court to consider when deciding whether to grant permission to appeal against case management decisions. Existing general rule 30.3(7) on permission to appeal still applies.	PD30A of the FPR 2010.
Appeals to HCJs in the family court on point of general importance	"Leapfrogging" is currently not available to a HCJ –there is however a "leapfrogging" provision to the Court of Appeal under section 57 of the Access to Justice Act 1999.	Appeals (including an application for permission to appeal) that lie to a judge of DJ level or of CJ level in the family court, and the application for, can be directed to be heard by a HCJ sitting in the family court at the direction of a Designated Family Judge (DFJ) or HCJ sitting in the family court, where the appeal raises an important point of principle or practice. "leapfrogging" provision to the Court of Appeal under section 57 of the Access to Justice Act 1999 remains.	The Family Court (Composition and Distribution of Business) Rules 2014 Certain Appeals are routed to the family court by the Access to Justice (Destination of Appeals)(Family Proceedings) order 2014
Appeal against transfer	There is power in s94 (10) and (11) of the Children Act 1989 for appeals against transfer decisions to be restricted in certain proceedings such as those under the Children Act 1989 and articles 25 and 26 of the Allocation and Transfer of Proceedings Order 2008 restricts appeals in relation to refusal to order transfer of proceedings from magistrates' court to county court and appeal against transfer of proceedings to magistrates' court by county court .Otherwise there are no appeals against transfer in proceedings such as those under the 1989 Act.	There will be no appeal against transfer of proceedings between the family court and the High Court; and between the family court and the Court of Protection.	No SI under 31K (3) MFPA 1984
<i>Justices' clerks and assistants</i>			
General role	Justices' clerks and assistants authorised	Justices' clerks and assistants authorised to	Justices' Clerks and Assistants

	to perform a range of functions in the magistrates courts.	perform broadly the same range of functions, with some differences, no matter to which level of judge in the family court a case is allocated. Justices clerks and assistants will be bound by a duty to refer a matter to a court if they believe it would be inappropriate to carry out a function.	Rules 2014 (under s 310 -MFPA 1984) See also Justices' Clerks and Assistants (Amendment) Rules 2014 (also under s 310 MFPA 1984), which substitutes an amended Schedule of authorised functions
Divorce	Justices' clerks and assistants have no role in divorce/separation proceedings, which are handled by DJs.	Justices' clerks and assistants authorised to perform certain functions in undefended divorce/separation cases.	Justices' Clerks and Assistants Rules 2014 (under s 310 MFPA 1984)
Gate-keeping	Justices' clerks perform gate-keeping role in most DFJ areas for public law cases under the Public Law Outline pilot.	Justices' clerks will be able to perform gate-keeping function in all DFJ areas for public law and private law cases.	Amendments to Justices' Clerks and Assistants Rules 2014 (under s 310 MFPA 1984)
<i>Single lay justices</i>			
Single lay justices	Single lay justices can carry out a range of functions in the Family Proceedings Court.	Single lay justices will be able to carry out broadly the same range of functions in the family court.	Amendments to FPR 2010 Rules 2.5, 2.6 & PD2A.
<i>Composition, allocation and transfer</i>			
Transfer of proceedings	For proceedings to be moved to a higher or lower court they had to be transferred rather than just allocated. So family proceedings courts transferred cases to the county courts, who transferred cases to the High Court.	Cases generally should no longer need to be transferred between levels of court (family court to High Court and vice versa) as different levels of judge can sit in the family court. Where the family court can deal with a case it should do so. Proceedings can only be transferred between the family court and the Court of Protection; or between the family court and the High Court, in accordance with Rule 29.17 and PD29C.	Amendments to Part 7 and 29 of FPR 2010. The Family Procedure (Amendment No.3) Rules 2013 and to the Family Procedure (Amendment No.2) Rules 2014
Transfers between DFJ areas	Proceedings can be transferred from one county court to another and from one family proceedings court to another.	Proceedings can be 're-directed' between DFJ areas on application, under Rule 29.18 and of the court's own motion in accordance with the Part 18 procedure.	Amendments to Part 29 of the FPR 2010. The Family Procedure (Amendment No.3) Rules 2013
Remedies sought	Remedies identified in the FPR Part 20 may be granted in the High Court & in	Certain judges of the family court are prohibited from dealing with applications for	The Family Court (Composition and Distribution of Business)

	certain circumstances in the county court but not in the magistrates' court.	certain remedies. These largely replicate the current situation. But DJ (MC)s will be able to deal with the same remedies as a DJ and so will be able to deal with more types of remedies than currently.	Rules 2014 (under S31D MFPA 1984)
Composition of the court	The Family Proceedings Courts magistrates' bench consists of two or three lay justices, or a DJ (MC) with two lay justices and the DJ(MC) as chairman.	The composition of the bench of magistrates will only consist of two of three lay justices – not DJ(MC). Other judges of the family court will sit alone.	The Family Court (Composition and Distribution of Business) Rules 2014 (under S31D MFPA 1984)
Chairmanship of a bench of magistrates	When a DJ(MC) sat as a bench of magistrates they would chair the bench.	DJ(MC) will no longer sit as a bench of magistrates in the family court and so will not chair the bench.	Amendment to Rule 3(2) of the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005 made in the Crime and Courts Act (Family Court: Consequential Provision) (No.2) Order 2014
Authorisation of judges of the family court	The President authorises District Judges and Circuit Judges to be able to deal with different types of family proceedings. But lay magistrates are authorised by the Lord Chief Justice (or his nominee) to deal with any family proceedings that are to be submitted to the family proceedings courts.	The President will still be able to authorise District Judges and Circuit Judges to hear different types of family proceedings.	The Family Court (Composition and Distribution of Business) Rules 2014 (under S31D MFPA 1984) – Part 3
Applications within existing or previous proceedings: Remedies: powers for lay magistrates	Magistrates currently have the power to grant a range of remedies relating to family proceedings.	Applications within existing or previous proceedings will be allocated to the level of judge who is dealing with/ who dealt with those previous proceedings. This is subject to exceptions set out in the Rules referred to in the next column. The exceptions relate to remedies and committal applications. As regards remedies: Magistrates are authorised to grant various remedies – being those <u>not</u> listed in Schedule 2 to the Rules referred to in the next column.	The Family Court (Composition and Distribution of Business) Rules 2014 (under S31D MFPA 1984) – Schedule 2

		<p>These remedies are:</p> <ul style="list-style-type: none"> - Penal notices - Suspension of Committal Orders for non-Compliance with non-monetary orders - Judgment summons - Means of payment order - Attachment of earnings order 	
Remedies: powers for district judges	District Judges (MC) currently have the power to grant a range of remedies under S31D MFPA.	Increasing the types of remedies that DJ (MC) can grant.	The Family Court (Composition and Distribution of Business) Rules 2014 (under S31D MFPA 1984) – Schedule 2
Allocation of emergency applications	Emergency applications are dealt with at the court they are submitted to by whoever is available, including a single lay justice where required.	Emergency applications will be dealt with by whichever judge of the family court (including lay justices and a single lay justice) is available and, where applicable, is authorised to deal with the proceedings in question. There are two particular types of cases under Part 4 FLA 1996 which will require a DJ or above to deal with them, as now.	The Family Court (Composition and Distribution of Business) Rules 2014 (under S31D MFPA 1984 Rules)
Allocation of cases	Cases are dealt with in the court that they are submitted to or transferred to another court where the case is too complex.	Certain types of proceedings set out in Schedule 1 to the Rules referred to in the next column will be allocated to specified levels of judge within the family court, subject to consideration of local resource.	The Family Court (Composition and Distribution of Business) Rules 2014 (under S31D MFPA 1984)
Allocation of applications: Gate-Keeping	Justices' clerks perform gate-keeping role in most DFJ areas for public law cases under the Public Law Outline pilot.	Those cases that are not emergency applications and cannot be allocated automatically will be allocated by a gate-keeping team to the appropriate level of judge based on criteria set out in the legislation and in guidance or directions issued by the President of the Family Division after consulting the Lord Chancellor.	The Family Court (Composition and Distribution of Business) Rules 2014 (under S31D MFPA 1984)
<i>Miscellaneous</i>			
Starting proceedings	Certain proceedings must be started in the	Except where	Amendments to Part 5 of the FPR

	High Court. Certain other proceedings must be started in a county court. Certain other proceedings must be started in a family proceedings court and in certain proceedings the applicant can choose where to issue.	(i) proceedings relating to the same parties are already being heard in the High Court, (ii) a rule or Practice Direction provides otherwise; or (iii) the court directs otherwise, proceedings must be started in the family court if it has jurisdiction.	2010. The Family Procedure (Amendment No.3) Rules 2013
Family Panels Rules	Currently the Family Panel can (a) make recommendations to the Family Training Development Committee (FTDC), or if there is no FTDC, the BTDC for its local justice area, in relation to the number of new family justices required to sit and preside in the family proceedings court; and (b) Liaise with other bodies in order to share information and represent the views of family justices sitting in the family proceedings court.	The Rules no longer apply to the family proceedings court. The Family Panel will: (a) make recommendations to the Family Training Development Committee (FTDC), or if there is no FTDC, the BTDC for its local justice area, in relation to the number of new family justices required to sit and preside in the family court; and (b) Liaise with other bodies in order to share information and represent the views of family justices sitting in the family court. The only substantive change, then, is that their functions will in future link to the family court rather than to Family Proceedings Courts.	The Family Court (Constitution of Committees: Right to Preside) Rules 2014
Principal Registry	The Principal Registry is part of the High Court but may be treated as a class of county court for certain proceedings (e.g. divorce county court, care centre, adoption centre, forced marriage county court etc). District Registries are part of the High Court.	District Registries and the Principal Registry will remain part of the High Court but will not be part of the family court. The Principal Registry will not be treated as the family court for any purpose. Judges of the High Court, including DJ(Principal Registry of the Family Division), will sit in the family court. The PRFD will remain as part of the High Court.	Amendments to Part 7 of the FPR 2010. The Family Procedure (Amendment No.3) Rules 2013 (under s31C MFPA1984 and various primary changes)

Where proceedings may be heard	Proceedings under Part 7 (divorce/separation) may be heard in specified courts.	Proceedings under Part 7 will be heard in the family court (although the High Court will retain jurisdiction) and allocated to a district judge unless and until proceedings are defended.	Amendments to Part 7 of the FPR 2010 made in the Family Procedure (Amendment No.3) Rules 2013 See also the Family Court (Composition and Distribution of Business) Rules 2014
Applications for financial remedy - overseas	Application for permission to apply for a financial remedy after overseas proceedings must be made in the Principal Registry.	These applications may now be made in the family court but will continue to follow the Part 18 Procedure.	Amendments to Part 8 of the FPR 2010 made by the Family Procedure (Amendment No.3) Rules 2013
Procedure for financial hearings	Applications for a financial remedy in the High Court and county courts follow the Chapter 4 procedure. Applications for a financial remedy in the family proceedings courts follow the Chapter 5 procedure.	Applications for certain types of financial remedy in the family court will follow the Chapter 5 procedure. All other applications will follow the Chapter 4 procedure. In particular cases applications that would otherwise follow the Chapter 5 procedure may follow the Chapter 4 procedure if the court so directs upon application by the applicant. (Participants may seek an order from the court that procedure in Chapter 4 should apply to proceedings. The court will determine before first hearing which procedure will apply).	Amendments to Part 9 of the FPR 2010 made by the Family Procedure (Amendment No.3) Rules 2013
Applications for recovery orders	Separate rules apply to magistrates' courts and county courts/High Court. In the magistrates' court, applications may be made without notice only with permission of the court.	Permission of the court will not be required to make an application without notice (thereby following the current rules applying to proceedings in the High Court/county court).	Amendments to Part 14 of the FPR 2010 made by the Family Procedure (Amendment No.3) Rules 2013
Written reasons for decisions	Family proceedings courts have to produce written reasons for decisions and give to both parties within 72 hours.	Lay justices will continue to give written reasons. DJ (MC) will no longer need to give written reasons for decisions. Instead parties will need to request a transcript. As is the case with other DJs.	The FPR 2010 as amended by the Family Procedure (Amendment No 2) Rules 2014.

<i>Registration of maintenance orders</i>			
Registration of maintenance orders	<p>Proceedings for the enforcement of maintenance orders registered in magistrates' courts are not automatically "family proceedings".</p> <p>Maintenance orders made or registered in the magistrates' courts may be registered or re-registered in the High Court.</p>	<p>Registered Orders may be enforced in the family court.</p> <p>Maintenance orders made or registered in the family court will not be registered or re-registered in the High Court for enforcement.</p> <p>High Court maintenance orders, which could include Scottish/Northern Irish orders registered in the High Court, may be registered in the family court for enforcement.</p>	<p>Amendments to Part 32 of the FPR 2010 made by the Family Procedure (Amendment No.3) Rules 2013, plus primary amendments (e.g. to the Maintenance Orders Acts 1950 and 1958).</p>
Variation of maintenance orders	<p>In the magistrates' courts, previously followed separate procedures (Rules under s144 of MCA 1980).</p>	<p>Now follow same rules as for application for a maintenance order/revocation of maintenance order under FPR 9.22.</p>	<p>Amendments to Part 9 of the FPR 2010 made by the Family Procedure (Amendment No.3) Rules 2013</p>
Enforcement by court officers	<p>In the magistrates' courts only, where payments were ordered to be made through the court, the court officer would proceed in their own name to recover sums due if in arrears and permission is granted or request made by the payee.</p>	<p>Where payments under an order for periodical payments are to be made through the family court and are in arrears, and permission is granted or request made by the payee, the court officer will proceed in their own name for recovery of sums due. Payee responsible for costs of enforcement. This largely mirrors the current magistrates' courts procedure into the family court.</p>	<p>Amendments to Part 32 of the FPR 2010 made by the Family Procedure (Amendment) Rules 2013</p>
Designated Family Judge Areas	<p>Where an order is registered under specified provisions dealing with the reciprocal enforcement of maintenance orders in a magistrates' court, and the court officer is satisfied that the payer does not reside or have assets within the jurisdiction of the court he must return the order to the Lord Chancellor (REMO unit).</p>	<p>Where such an order is registered in a Designated Family Judge area of the family court and the court officer believes the payer is residing in another DFJ area, the court officer must send the appropriate documentation to that other area and inform the payee and the Lord Chancellor (REMO unit).</p>	<p>Amendments to Part 34 and PD34E of the FPR 2010 made by the Family Procedure (Amendment No.3) Rules 2013 and accompanying Practice Direction amendments.</p>

<i>Contempt of court powers</i>			
Circuit and District Judges' committal and fining powers	CJs and DJs sitting in the County Court are restricted to sentences of one month custody and/or a fine not exceeding £2,500 for contempt in the face of the court. Magistrates, including DJ(MC) limited to two months custody and/or fine up to £2500 for breach of order.	Regulations under s31H will allow circuit judges powers of up to two years custody and/or Level 5 fine for both breach of judgment and contempt in the face of the court; and will align DJ(MC) powers with other DJs in the family court. Fines will all align at Level 5, with exception of High Court which are unlimited.	The Family Court (Contempt of Court) (Powers) Regulations 2014 (under s 31H MFPA 1984)
Allocation of contempt proceedings	Contempt proceedings are heard by the judge dealing with the substantive issue unless they do not have the power to do so.	Magistrates will only be able to bring contempt proceedings in relation to a judgement/order/etc capable of being made by a magistrate. DJs (including DJ(MC) and Deputy DJs) will only be able to bring proceedings in relation to judgement/order/etc capable of being made by a DJ. CJ and above capable of bringing proceedings in relation to all matters.	The Family Court (Composition and Distribution of Business) Rules 2014 (under S31D MFPA 1984Rules)
<i>Enforcement of Orders</i>			
Civilian Enforcement Officers	Civilian enforcement officers can execute warrants of arrest, commitment, detention or distress to enforce orders made in the magistrates' courts.	As magistrates and DJs(MC) will be able to sit in the new single family court, this order is intended to allow civilian enforcement officers to execute those warrants made by a lay magistrate or D/J(MC) sitting in the family court.	The Family Court Warrants (Specification of Orders) Order 2014