



Access Applications in the District Court



Access vs Custody

Access is the contact between a child and the parent with whom the child does not ordinarily reside.

The need to make an application for access normally arises where the married parents of a child separate or where an unmarried parent seeks access to his or her children.

Custody is the right of a parent to exercise physical care and control in respect of the upbringing of their child on a day to day basis.

Who can apply for access?

1. A legally separated parent who has not been awarded custody is entitled to apply for access to the child. Such a parent remains the child's guardian.
2. In the case of an unmarried father, access may be applied for whether or not the father's name is on the register of births, whether or not he is a joint guardian and even if an application for joint guardianship has been refused. Where a person is applying for guardianship and access, separate applications must be made but both applications will usually be heard at the same hearing. (Please see MLRC leaflet on Guardianship).
3. Under the Children's Act 1997, any person related to the child by blood or adoption, such as grandparents, may apply to the court for leave (permission) to apply for access to a child. This also applies to any person who has acted in loco parentis (in place of a parent) to a child.
4. Where a child is in the care of a health board, parents or relatives may apply for access

How to obtain access

1. Where the parents of a child are not living together, it may be possible to reach an informal agreement so that the non-resident parent may have access to his/her child on a regular basis without having to apply to court.

This is possible regardless of marital status. If parents are having trouble making an arrangement that is satisfactory to both, then the following mediation service may be of help:

*Family Mediation Service
Floor 1
St Stephens Green House
Earlsfort Terrace,
Dublin 2
Tel: 01-634 4320
Website: www.fsa.ie*

2. Where an agreement cannot be reached, an application may be made to the District Court for an access order.

Where to make the Application

An application for access will be brought in the District Court by issuing a Notice of Application. For people living in Dublin this can be done through Dublin District Court Family Law Office.

Address

Ground Floor

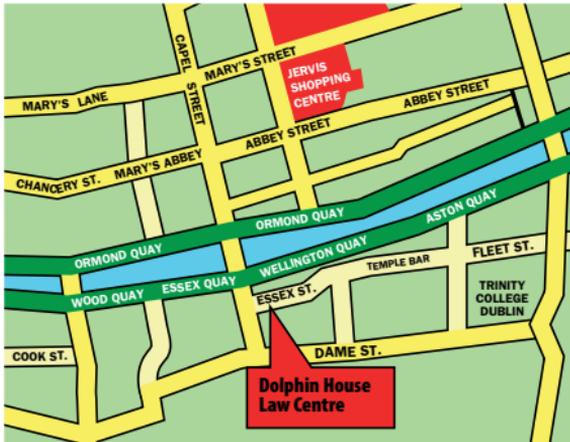
Dolphin House

East Essex Street

Dublin 2

Tel: +353 (0)1 888 6349 / 6344 / 6347 / 6348 / 6353 / 6368

Map



How to get there

The District Court Office is located on East Essex St, in the Temple Bar area of Dublin City centre.

By Dublin Bus: there are numerous bus routes servicing the city centre - check Dublin Bus timetable, visit www.dublinbus.ie or phone Dublin Bus 01 873 4222.

By Luas: Luas red line runs from Tallaght to Connolly Station. The nearest stop is at Jervis Centre on Upper Abbey Street - this is approximately 5 minutes walk to Dolphin House.

Opening Hours

Monday to Friday:

9.30 a.m. to 12.30 p.m. & 2.00 p.m. to 4.30 p.m

Steps to be taken to bring the Application

The person seeking access will present at the public counter of Dublin District Court Family Law office and state that they want to issue a Notice of Application for an Order giving Access.

Please note the “Applicant” is the person who is looking for access and the “Respondent” is the person who has custody of the child.

The applicant will then be taken to an interview room and will be given assistance with completing the Notice, (please see copy below), by the court staff. All forms will be provided by the District Court Office.

Please note the court staff will not give legal advice on the possible outcome of the hearing but will assist with getting the application before a judge.

The court staff will insert a court date and serve the Notice on the Respondent.

Please note the next available court date will be in approximately 6 weeks from the date the applicant presents at the District Court Office.

NB: The applicant must arrive at the court at 10.00am on the morning of the court date and wait for their case to be called. If the Applicant fails to turn up on the given court date on a number of occasions, this may result in a ban, called an Isaac Order, on the application being brought.

Matters to consider at the Court Date

If the respondent consents/agrees to the application, the order will be granted on the first court date and arrangements for access will be agreed by both sides.

If the matter is contested, the Judge will generally adjourn the hearing to a later date and may ask for witnesses to be present or reports to be submitted.

The Judge will generally guide you through the process.

In deciding on access he or she will consider the child's welfare to be the main consideration and may look at the following matters:

- The age of the child;
- Each party's relationship with each other;
- The length of the relationship of the parties in dispute;
- Whether the relationship was of a permanent nature;
- Each party's involvement with the care of the child (financial, emotional, and physical).

The applicant should consider these items before the court date and if possible provide witnesses/evidence to strengthen their case.

Evidence may be receipts of monies/gifts/maintenance given to the child / child's primary carer.

Witnesses may include people to vouch for the good nature of the applicant to include social workers, key workers, nurses, doctors or letters from these parties.

The applicant must also consider where the access will take place and/or whether the access will be supervised and if they will agree to this.

If the court decides that access by the non-resident parent is best for the child, the court may set the time, place and duration of that access.

It is very rare that access is not granted to an unmarried father unless he has serious addiction or violence problems and even in these cases the court may grant access on condition that it is supervised.

Legal Aid

Whilst you can make this application yourself, you are also entitled to apply for legal representation through the legal aid board. To qualify for legal aid, your disposable income and assets must be below a certain limit, there must be merit to the case and there must be no more satisfactory way of resolving the problem.

The Board's offices are called Law Centres and are located around the country. For the location of your nearest Law Centre, call 1890 615 200.

The following Law Centres are in Dublin City Centre:

- i. 2nd Floor Dolphin House, East Essex Street, Dublin 2
- ii. 45 Lower Gardiner Street, Dublin 1
- iii. 48/49 Nth Brunswick Street/Georges Lane, Dublin 7.

If you pass the financial and merits test you will be allocated a solicitor from the Law Centre or from the panel of private practitioners. This must be done within 2-4 months or earlier if the case is urgent e.g. child care, domestic violence. There is a minimum advice contribution of €10 and representation contribution of €50.

For further information, contact the Legal Aid Board at LoCall 1890 615 200 or visit their website at www.legalaidboard.ie

Disclaimer

While every effort has been made to ensure the accuracy of this leaflet, it is provided for general legal information only and is not intended as a substitute for legal advice. MLRC does not accept any legal liability for the contents of this leaflet. Persons with specific legal problems should consult a solicitor.

S.I. No. 125 of 1999

SCHEDULE C
0.58,r.4(5)(3)

AN CHUIRT DUICHE THE DISTRICT COURT

No. 58.19

Guardianship Of Children Acts, 1964 To 1997

Notice of Application Under Section 11b For An Order Giving Access *Dublin Metropolitan District *District Court Area of *District No.

_____ Applicant

_____ Respondent(s)

TAKE NOTICE that application will be made at the sitting of the District Court to be held at _____ on the _____ day of _____ 20_____ at _____ a.m./p.m. under section 11B of the Act in respect of _____ born on _____ born on _____ child(ren) residing at _____ by the above-named applicant of _____ in the court *(area and)district aforesaid

*[being a relative of the said child(ren)]

*[who has acted in loco parentis to the said child(ren)]

and to whom section 11 of the Act does not apply,
for an order giving the applicant access to the said child(ren).

Dated this _____ day of _____ 20_____

Signed _____

Applicant/Solicitor for the Applicant

To: _____

of: _____

and

To: _____

of: _____

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