

Chapter 27: Guidance on answering the self-test questions

Question 1: Mary (born 3 June 2000) is the daughter of Simon and Katie, who are unmarried. Simon was arrested after assaulting Katie and was given community service. Katie is having difficulty coping on her own and asks her parents, Tim and Annie, to look after Mary.

(a) Advise Tim and Annie whether they can apply for a residence order (CAO) and the procedure that will be followed.

A residence order is now called a Child Arrangements Order. Tim and Annie must have the leave of the court to apply under s10(2) Children Act 1989 (CA 1989). Under s10(9) CA 1989, Tim and Annie will have to inform the court of their proposed application, their connection to the child, and any risk of disruption to the child by their application. An application will be made on a Form C100 to a Family Proceedings Court or a County Court. Notice will be given to Simon and Katie. An initial hearing will decide whether to grant leave and then (if granted), the procedure will follow the usual steps.

(b) Advise Simon whether he can apply for a contact order (CAO) and whether there are any other orders that he should apply for at the time of applying for a contact order.

Simon would be advised to apply for parental responsibility if he does not already have it as well as a CAO.

(c) Advise Katie how the court will deal with her allegations of domestic violence.

If allegations of domestic violence are made within an application, the court must take steps to:

- identify at the earliest opportunity the factual and welfare issues involved;
- consider the nature of any allegation or admission of domestic violence and the extent to which any domestic violence which is admitted, or which may be proved, would be relevant in deciding whether to make an order about residence or contact and, if so, in what terms;
- give directions to enable the relevant factual and welfare issues to be determined expeditiously and fairly.