



Fact finding hearings

Fact finding hearings can be an important way for the court to decide whether or not allegations are true. However, attending a fact finding hearing can feel quite daunting, especially if you do not have a lawyer. This legal guide will give you information about how to prepare for a fact finding hearing and what to expect. Rights of Women publishes a number of other legal guides that may be useful. You can access our full range of legal guides at www.rightsofwomen.org.uk

What is an allegation?

An allegation is when you say that someone has done something harmful or wrong. In family law proceedings the most common allegations that people make are that the other party has behaved in a way that was abusive, dishonest or harmful.

What is a fact finding hearing?

If one party makes allegations during family law proceedings and the other party denies the allegations, the judge will consider whether there should be a fact finding hearing. This is a special hearing just to decide whether or not the allegations are true.

Fact finding hearings are most common during children law cases, but can also happen during other family law proceedings such as domestic abuse injunctions, divorce or financial remedies.

When will a court arrange a fact finding hearing?

The court will only arrange a fact finding hearing if the allegations will make a difference to the court's final decision.

See [Children and the law: domestic violence and Practice Direction 12J](#) for information on when the court will have a fact finding hearing in child arrangements cases involving allegations of domestic abuse.

If the other party admits the allegations or they have been found guilty by a criminal court, it will already be clear that the allegations are true. In these circumstances the judge will probably decide there is no need for a fact finding hearing.

Example:

Ollie was violent towards Rose. Rose reported the violence to the police and after criminal proceedings he was found guilty of assault. Ollie has now applied for a child arrangements order. Rose has told the family court that Ollie was violent towards her. Ollie denies that he was violent towards Rose. The judge says a fact finding hearing is not necessary because the criminal court has already found the allegation to be true.

Even if the other party denies the allegations, the judge may still decide that a fact finding hearing is not necessary to determine the application before the court.

Example

Adam and Elektra have two children together. Elektra says that Adam has threatened to take the children to live in another country. Adam denies this. Adam has applied to court for a child arrangements order because he wants the children to stay every weekend. The judge says a fact finding hearing to decide whether Adam threatened to take the children is not necessary because Elektra agrees that the children are safe having unsupervised contact with Adam and they are disagreeing about the amount of contact.

If the allegations will affect the final decision, then the court should arrange a fact finding hearing.

Example

Sally and Ben have separated. They have a daughter. Sally believes Ben has a drug problem and should not be left alone with their daughter. Sally lets Ben come and see their daughter a couple of times a week and she always supervises. Ben is frequently abusive to Sally in front of their daughter. Sally has applied to the Family Court for a child arrangements order to resolve the issue. She says Ben should have supervised contact only. Ben wants unsupervised contact with his daughter. He says he does not take drugs and that he has never been abusive or aggressive towards Sally. The court has ordered a fact finding hearing to determine whether Sally's allegations are true.

It is for the judge to decide whether there should be a fact finding hearing, but you can put your views to the judge to consider.

The decision about whether there should be a fact finding hearing usually happens at the first hearing. If you believe it is necessary for there to be a fact finding hearing, you should raise this early in the case and explain why your allegations will make a difference to the final decision the court has to make. You should also think through the evidence you might be able to get to support your allegations and can ask the court to make directions to allow you to produce your evidence if they decide a fact finding hearing is necessary.

If the judge decides that there should not be a fact finding hearing then the reason why the judge came to this decision should be included in the order and explained to you at court. You may not be able to rely on the allegations for the rest of the case.

If the judge decides that there should be a fact finding hearing then the date of the hearing will be included in a court order. The order will also include details of things you need to do before the fact finding hearing and when you should do them. Read the order carefully and make a note of what you need to do and by when.

The judge should also consider whether you need support to help you at the fact finding hearing. Sometimes there will be a separate hearing called a **ground rules hearing** to decide what help is needed. Help includes special measures such giving evidence from behind a screen or from another room using a video link. See [Special measures in the criminal and family courts](#).

If you or the other party do not have a lawyer, then the judge should also consider how the cross-examination will happen. Cross-examination is the part of the fact finding hearing when you and the other party are questioned about what happened. If there is no lawyer to do the cross-examination then the judge might appoint a lawyer to ask the questions. If it is not possible to appoint a lawyer then the judge might ask the questions themselves. See [Cross-examination of survivors and perpetrators of domestic abuse in the Family Court](#).

You can tell the court what special measures you need and whether you need help with cross-examination before or at the hearing when the judge makes these decisions.

Evidence to support your allegations

The court may ask you to write a witness statement setting out the history of your relationship and describing your allegations in detail. This is part of your evidence and the judge will use this to decide whether the allegations are true. You should make sure everything you want to raise is in your witness statement. For information on preparing a witness statement see [A guide to preparing witness statements for the family courts](#).

You should also think about whether there is any evidence from professionals or other people which supports your allegations. If you have spoken to the police about the allegations you can ask the judge to make an order for the police to disclose their records. If you have spoken to your GP about the allegations you could ask the court for permission to provide a letter from your GP. The letter could confirm when you spoke to them about the allegations, what you told them, whether you had any injuries and what treatment was required. You can ask the GP to attach their record of the consultation to the letter. There is no need to provide all of your medical records.

If you want the court to have evidence from any family or friends who saw or heard the allegations you should ask the judge for permission to file a witness statement from them too.

Schedule of allegations

The schedule of allegations is often referred to as a **Scott schedule**. If the judge decides there should be a fact finding hearing you may be asked to provide a list or a schedule of all the allegations you want the judge to make a decision on. If the other party has made allegations against you, they may also be asked to provide a schedule of allegations, which you will need to respond to. The schedule is a summary of the allegations you are making. Any allegations that you put in your schedule should also be described in more detail in your witness statement.

There is an example of a schedule below.

The use of schedules has been criticised as not being helpful for fact finding hearings about domestic abuse. This is because domestic abuse usually involves a pattern of behaviour and the abuse builds over time. Schedules require survivors to describe the abuse as separate incidents, and it is often not possible to reflect the nature and impact of abuse in this way. Some judges and courts are trying different approaches which avoid using schedules. This means you might not be asked to prepare a schedule in your case. You might be asked to write a summary or short statement describing your overall experience of being in a relationship and parenting with the other party, the nature of the abuse you allege and the impact it had on you.

How to complete a schedule of allegations

If you have been asked to complete or respond to a Scott schedule or a schedule of allegations, see the example below and the following guidance notes:

1. Heading – put a heading at the top of your schedule, as with all of your court documents.
2. Number – number your allegations.
3. Date – put the date that the incident or behaviour happened. If the behaviour happened on more than one date you can list all the dates. If the behaviour happened over a period of time then put when it started and ended (see allegation number 1 in the example below). If the abuse is still happening put “Ongoing from (date abuse started) until now”.
4. Allegation – keep this short and factual. The detail about the allegation will be in your statement and in the spoken evidence you give at the fact finding hearing. Sometimes the allegation can be put as an incident that happened on a particular day. However, some types of abuse such as controlling and coercive are a pattern of behaviour which happen over time. Describing a few isolated incidents will not show the level and impact of the abuse. In these cases you can describe the abusive behaviour as your allegation rather than referring to one incident. In the example of a schedule below, the survivor has alleged that the other party was coercive and controlling and then gives examples of what he did and the impact it had on her.
5. Reference – say where you have provided details of the allegation, and where it is in the court bundle (the court bundle is the indexed file of documents that you, the other party and the judge will each have copies of at the hearing). You should refer to the paragraph of your statement where you have talked about each allegation. You should also refer to any other supporting evidence you have, for example from the police, local authority or medical records so that the judge can easily find all the evidence available.
6. Response – this section is for the other party to put their response to each allegation. If you are preparing the schedule

then leave this part blank for the other party to fill in. They will need to say whether they admit or deny the allegations. If they deny an allegation it means they do not agree that it happened. They can include a short, factual explanation or refer the court to their own schedule if they have made allegations against you. The person responding to the allegation will also need to refer to any evidence they have provided on the allegation.

7. Judge's finding – leave a column in the table for the judge to complete at court. The Judge will hear evidence and decide whether they find each allegation to be true. If the judge decides it is likely that the abuse did happen they will state that the allegation is **found**. If the judge decides that the allegation is not true or there is not enough evidence to convince the judge, then the judge will state that the allegation is **not found**.
8. Remember to sign, print your name and date the schedule.



IN THE FAMILY COURT SITTING AT XXXX
CASE NO: XXXX
IN THE MATTER OF JULIA MORRISON ('A GIRL') (DOB 19.08.2009)

BETWEEN:

CAROLINE LUDIN **APPLICANT**
AND
ASHLEY MORRISON **RESPONDENT**

APPLICANT'S SCOTT SCHEDULE

	Date of allegation	Applicant's allegation	Reference	Respondent's response	Reference	Judge's Finding
1	August 2016 throughout the relationship and continuing to date	<p>R displays coercive and controlling behaviour towards A including but not limited to:</p> <p>On numerous occasions forcing A to cancel social events or leave early for frivolous reasons or after causing an argument, often accusing A of flirting with someone else, or not behaving the way R wanted her to, leading A to altering her behaviour and become isolated from friends and family.</p> <p>On many occasions (sometimes many times a day) including since separation, telling A she is worthless and a useless mother in person or via WhatsApp and email, leading A to feel anxious that she could not do anything right.</p> <p>On at least ten occasions standing over A (R is taller than A) so she could not move and shouting loudly at her very close to her face including calling her names such as 'whore' and 'bitch', leading A to fear that R was going to be violent.</p> <p>On numerous occasions including since separation, telling A he is in charge, that he can do what he wants and if she doesn't agree with him, he will go back to court, no matter what A or the child are doing and getting angry and abusive if he does not get his way, leading A to feel scared that she must do whatever R wants or he would be violent or abusive.</p>	<p>A's statement 10/11/20 paragraphs 3-15 and exhibits CL/1, CL/2, CL3. Bundle C21.</p> <p>Witness statement of A's sister 08/11/20 paragraph 2-10. Bundle C33.</p>	Denied.	R's statement 02/12/20 paragraph 2-5. Bundle C30	

	Date of allegation	Applicant's allegation	Reference	Respondent's response	Reference	Judge's Finding
2	16/08/2019	R shouted at A while at a friend's barbeque and was verbally abusive, calling her names including 'bitch' and assaulted her by grabbing her arm, leaving a bruise. The child was present and witnessed this.	A's statement 10/11/20 paragraph 17-20. Bundle C25. Witness statement of A's sister 08/11/20 paragraph 5-10. Bundle C33.	Denied. A was abusive to R and called him names. See counter schedule.	R's statement 02/12/20 paragraph 5-7. Bundle C30.	
3	02/08/2019	R punched A in the face, causing bruising.	A's statement 10/11/20 paragraph 21-27. Bundle C27. Police evidence dated 02/08/19. Bundle D17 and D34 GP letter dated 03/11/19. Bundle D2	Admitted.	R's statement 02/12/20 paragraph 8. Bundle C31.	
4	10/07/2019	R dragged A and their child to the parties' bedroom and locked A and the child in the bedroom, refusing to let them out for over an hour.	A's statement 10/11/20 paragraph 28-33. Bundle C22.	Denied. A was abusive to R and locked herself in the bedroom with the child.	R's statement 02/12/20 paragraph 9; Bundle C31. And A's statement 10/11/20 paragraph 29. Bundle C22.	
5	04/09/2018	R drove dangerously with A and the child in the car to punish the child for being rude.	A's statement 10/11/20, paragraph 34-37. Bundle C27.	Denied. A was pressuring R to drive quickly because she was annoyed and wanted to get home quickly.	R's statement 02/12/20 paragraph 10-11. Bundle C30.	

	Date of allegation	Applicant's allegation	Reference	Respondent's response	Reference	Judge's Finding
6	August 2006 throughout the relationship until separation	R was financially controlling of A. He did not permit her to have a bank account, required her salary and benefits to be paid into his account and would expect her to provide receipts for all sums spent.	A's statement 10/11/20 paragraph 38-42 and exhibits CL/4. Bundle C22.	Denied. A did not want her own bank account.	R's statement 02/12/20 paragraphs 4, 12-13. Bundle C30/31.	

Signature: *Caroline Ludin*

Name: Caroline Ludin

Date: 18 November 2020

What will happen at the fact finding hearing?

At the fact finding hearing each party will sit in the witness box to tell the judge what happened. This is called giving oral evidence. Each party will be asked questions by the other party or their lawyer about the allegations. This is called cross examination.

If you have experienced domestic abuse from the other party the law may prevent the other party from asking questions to you directly, and to protect you from having to ask questions to them directly. The cross-examination will still happen but the person asking the questions will be a lawyer or someone other than you or the other party. See [Cross-examination of survivors and perpetrators of domestic abuse in the Family Court](#).

If you are worried about talking in front of the other party then you can ask for special measures such giving evidence from behind a screen or from another room using a video link. See [Special measures in the criminal and family courts](#).

Before the hearing make sure you read your statement again.

When you are asked questions during cross-examination make sure you listen carefully to the question and take your time before you answer.

The judge's decision

In the family courts, the judge will look at each allegation and decide whether it is more likely than not that the allegation happened. This is called the **balance of probabilities**.

Example

Naomi has alleged that Ken was financially abusive. If the judge finds that it is more likely than not that he was financially abusive, then the court will record that he has been financially abusive. If the court finds that it is more likely than not that he wasn't financially abusive, then the court will record that he was not financially abusive.

The criminal courts have a higher standard when considering allegations. In the criminal courts, there must be enough evidence to prove beyond reasonable doubt that the allegation happened. It is harder to prove something beyond reasonable doubt than it

is to prove something on the balance of probabilities. This means that the Family Court could find your allegation to be true even if it wasn't possible to prove it to the police or criminal courts.

The judge may decide to take some time, maybe a few days or weeks to write their judgment and ask you to come back for another hearing when you will be given the judge's decision in writing.

Alternately, the judge may give an oral decision at the very end of the hearing. As best as possible, try to make a note of what the judge is saying while they are speaking. If you are unsure about the judge's decision, you can ask the judge to order that a transcript of their judgment is prepared.

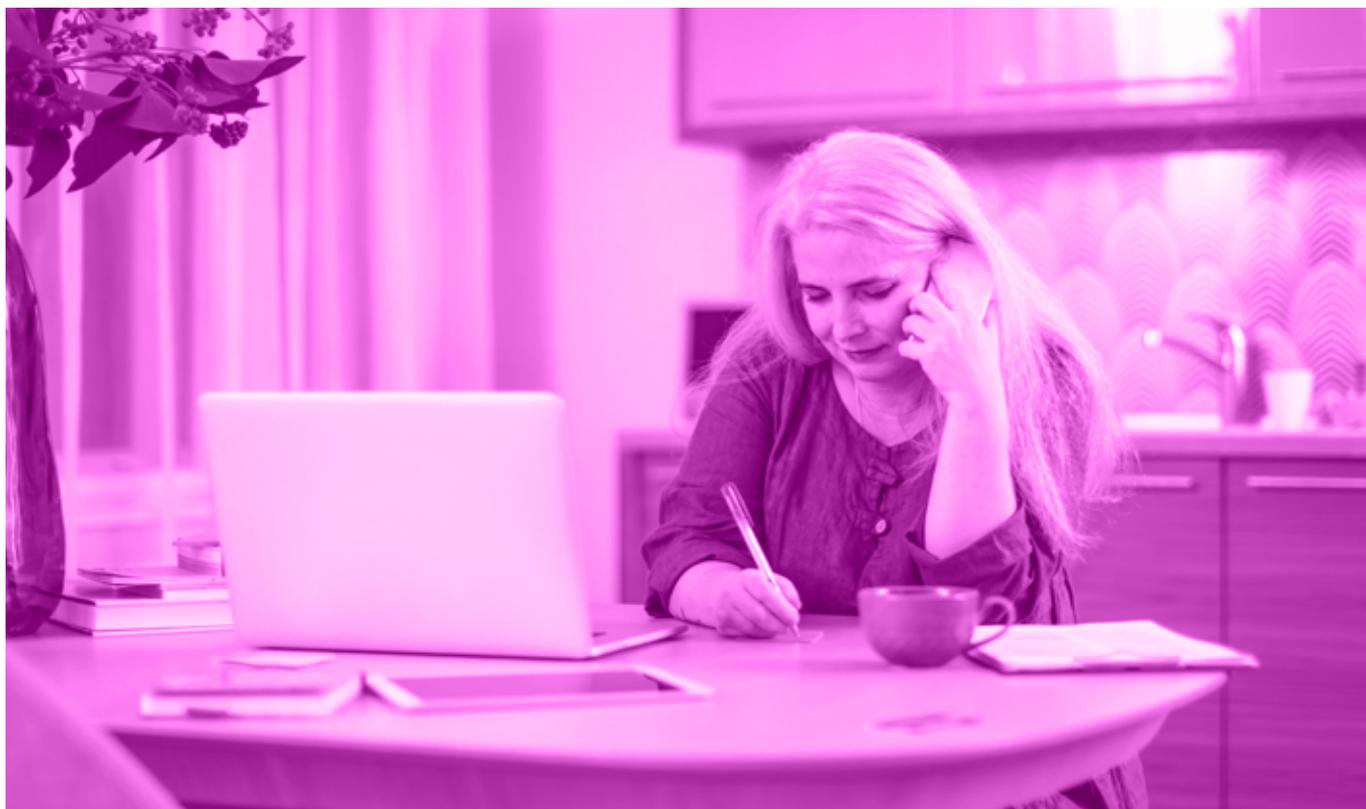
Try to make a clear note of whether each allegation has been found or not found. If you are unsure about any of the allegations, you can ask the judge.

If the allegations are found to be true, the judge will have to take the allegations into account when making decisions about the case. If the court finds that an allegation is false or that there is not enough evidence to prove an allegation, then the judge's decisions will be based on the allegations not being true.

Example

Adrian has applied for a child arrangements order so he can have contact with his daughter. The child's mother is Chrystal. Chrystal says that Adrian was violent towards her. There is a fact finding hearing to decide whether her allegations are true. If the judge finds that the allegations are true then the judge will need to think about the risks to the child and the impact of the violence before deciding what orders to make in relation to contact between Adrian and the child. If the judge decides that the allegations are not found then the judge can make decisions about contact assuming Adrian was not violent and does not pose any risk to the child.

Once the judge has given their judgment and decided each of the allegations they will tell you what will happen next with your case. The judge may decide that more evidence is required, for example an expert report or further statements from the parties. The judge may make decisions at the end of the fact finding hearing or list a further hearing to make final decisions about the case.



The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice. Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

Rights of Women's advice lines

We have two family law advice lines, one national and one for women in London.

Women living or working in London: **call 020 7608 1137**

For all women: call **020 7251 6577**

For a full list of Rights of Women's legal guides and information about our advice lines go to

www.rightsofwomen.org.uk

Useful contacts

Emergency Contacts	Legal advice and support
<p>Police (emergency) 999</p> <p>24 hour domestic violence helpline 0808 2000 247 https://www.nationaldahelpline.org.uk</p>	<p>Citizens Advice www.citizensadvice.org.uk</p> <p>Law Centres Network 020 7749 9120 www.lawcentres.org.uk</p> <p>Law Works Clinic Network www.lawworks.org.uk</p> <p>Personal Support Unit 020 7947 7701 www.thepsu.org</p> <p>Disability Law Service 020 7791 9800 www.dls.org.uk</p>
Finding a solicitor	
<p>The Law Society 0207 320 5650 www.lawsociety.org.uk/find-a-solicitor</p> <p>Ministry of Justice 020 3334 3555 http://find-legal-advice.justice.gov.uk</p> <p>Resolution 01689 820272 www.resolution.org.uk</p>	

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