

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 including **Family Court proceedings: where can I get advice and support?** and **A guide to preparing for court hearings and safety in the Family Court**. 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 illegal or wrong. In family law proceedings the most common allegations that people make is 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 which is arranged 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 for domestic violence 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.

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. During their relationship Adam was abusive towards Elektra. They are now separated. Elektra still has concerns about Adam's temper but she agrees that the children can stay with Adam every other weekend. Adam has applied to court for a child arrangements order because he wants the children to stay every weekend. Elektra has told the family court that Adam was abusive towards her which Adam denies. The judge says a fact finding hearing is not necessary because the parents agree to the children having unsupervised contact with the father and are only arguing over 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.

If the judge decides that there should not be a fact finding hearing then you may not be able to rely on the allegations for the remainder of the case.

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.

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.

How to prepare for a fact finding hearing

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. The schedule of allegations is often referred to as a Scott schedule. 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. There is an example of a Scott schedule below.

The court may also ask you to write a statement setting out the history of your relationship and describing any abuse you have experienced. Any allegations that you put in your Scott schedule should also be described in more detail in your statement.

You should also think about whether there is any evidence from professionals or other people which supports your side of the story. If you have spoken to the police about the allegations you should always 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 get a letter from your GP. The letter could confirm when you spoke to them about the allegations, whether you had any injuries and what treatment was required. If you have any friends who saw or heard the allegations you should ask the judge for permission to file a statement from them too.

How to complete a schedule of allegations/Scott schedule

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 5 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 incident will be in your statement and in the spoken evidence you give at the fact finding hearing.
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 incident. 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 finds that an allegation is true they will state that the allegation is **found**. If the judge decides that the allegation is not true the judge will state that the allegation is **not found**. If the judge cannot decide whether the allegation is true or not, the judge may state that the allegation **cannot be determined either way**.
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)
B E T W E E N:
CAROLINE LUDIN

APPLICANT

AND
ASHLEY MORRISON

RESPONDENT

APPLICANT'S SCOTT SCHEDULE

Date	Applicant's allegation	Reference	Respondent's response	Reference	Judge's Finding
02/08/2015	R shouted at A and was abusive, calling her names including 'whore' and 'witch'.	A's statement 10/11/15 paragraph 12. Bundle C25.	Denied. A was abusive to R and called him names. See counter schedule.	R's statement 02/12/15 paragraph 3. Bundle C30.	
02/08/2014	R punched A in the face, causing bruising.	A's statement 10/11/15 paragraph 18. Bundle C27. Police evidence dated 02/08/14. Bundle D17 and D34. GP letter dated 03/11/15. Bundle D2.	Admitted.	R's statement 02/12/15 paragraph 8. Bundle C31.	
10/08/2014	R locked A and the parties' minor child in the bedroom and would not let them out for over an hour.	A's second statement 07/03/16 paragraph 9. Bundle C45.	Denied. A was abusive to R and locked herself in the bedroom with the child.	R's statement 02/12/15 paragraph 9; Bundle C31. And A's second statement 07/03/14 paragraph 4. Bundle C45.	
04/09/2013	R told A that if she tried to end the marriage he would remove their child from her care.	A's statement 10/11/15, paragraph 21. Bundle C27.	Denied.	R's statement 02/12/15 paragraph 5. Bundle C30.	
August 2006 throughout the relationship until separation on 04/09/2015	R was financially controlling of A. He did not permit her to have a bank account and would expect her to provide receipts for all sums spent.	A's statement 10/11/15 paragraph 6. Bundle C22.	Denied. A did not want her own bank account.	R's statement 02/12/15 paragraphs 4, 9 and 10. Bundle C30/31.	

Signature *C. Ludin*

Name Caroline Ludin

Date 2 February 2017

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.

Before the hearing make sure you read your statement again.

When you are asked questions by the other party or their lawyer make sure you listen carefully to the question and take your time before you answer.

If you are concerned about questioning or being questioned by your abuser you can ask the judge if someone else can ask the questions instead of you and your abuser. It is also sometimes possible to give evidence via a video link or from behind a screen. See

A guide to preparing for court hearings and safety in the Family Court.

The judge will listen to the evidence and may also ask some questions of their own. The judge will make a decision about each allegation and complete the final column of the schedule.

Make sure you keep a clear note of whether each allegation has been proved to be true or false or whether it cannot be proved either way.

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 sort of contact Adrian should have with the child. If the judge decides that the allegations are not true then the judge can make decisions on 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 is to 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.

For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children:

Women living and working in London: call **020 7490 2562** the advice line is open Mon 11am–1pm, and Tues – Thurs 2–4pm.

For all women: call **020 7251 6577** the advice line is open Tues – Thurs 7–9pm and Fri 12–2pm.

For free, confidential, legal advice on immigration and asylum law or criminal and sexual violence visit **www.rightsofwomen.org.uk** for our advice line details.

Useful contacts

Finding a solicitor

The Law Society
0207 320 5650
www.lawsociety.org.uk/find-a-solicitor/

Ministry of Justice
020 3334 3555
<http://find-legal-advice.justice.gov.uk/>

Resolution
01689 820272
www.resolution.org.uk/

Emergency contacts

Police (emergency)
999

24 hour domestic violence helpline
0808 200 0247
www.nationaldomesticviolencehelpline.org.uk

Legal advice and support

Citizens Advice
www.citizensadvice.org.uk/index/getadvice.htm

Law Centres Network
020 7749 9120
www.lawcentres.org.uk/

Law Works Clinic Network
<http://lawworks.org.uk/>

Bar Pro Bono Unit
www.barprobono.org.uk/

Personal Support Unit
020 7947 7701
www.thepsu.org/

Disability Law Service
020 7791 9800
<http://www.dls.org.uk/>

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