

# **McKenzie Friends – support at court without a lawyer**

This guide will help you understand what a McKenzie Friend is and what you should expect from someone who is acting as a McKenzie Friend for you or the other side in your case.

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Rights of Women produces a number of other legal guides that you may find useful including **Family Court proceedings: where can I get advice and support?**, **A guide to preparing for court hearings and safety in the Family Court** and **A guide to preparing witness statements for the Family Court**. You can access our full range of legal guides at [www.rightsofwomen.org.uk/get-information](http://www.rightsofwomen.org.uk/get-information)

You can find the Court's guidance on McKenzie Friends here: [www.judiciary.uk/publications/mckenzie-friends](http://www.judiciary.uk/publications/mckenzie-friends)

## Terminology

You might hear the court or other professionals use some of the following terms in the Family Court:

**Litigation or Proceedings** – these words generally mean a court case. This is opposed to when you have a legal problem but do not need to go to court to resolve it.

**Litigant in person or Unrepresented party** – These terms mean the same thing. It is someone who is a party to a court case and does not have a lawyer at court with them.

**Rights of audience** – You can speak to the judge in your own case. However, if you ask someone else to speak to the judge for you, like a solicitor or barrister, they must have rights of audience. In the family courts, solicitors and barristers have rights of audience. McKenzie Friends do not have rights of audience which means they cannot speak to the court for you.

**Advocacy** – in a legal context, this means speaking in court on behalf of someone.

**Solicitor or barrister or counsel** – all types of lawyer. Traditionally, a solicitor gives advice and prepares the case out of court. If the case goes to court, the solicitor will send the case to the barrister who presents the case to the judge. Counsel is another word for barrister. However, the differences between solicitors and barristers are less clear now and many solicitors will present their client's case in court. It is also possible for you to go straight to a barrister without needing a solicitor through the public access portal. See the Useful contacts section for information on how to find a solicitor or barrister.

**Usher** – a member of court staff who is normally located near the courtroom where your hearing will take place. One of the usher's roles is to take people into the courtroom when the judge is ready to start a hearing.

## What is a McKenzie Friend?

A **McKenzie Friend** is someone who is not legally qualified who can attend court with you when you do not have a lawyer to provide support and assistance.

The term **McKenzie Friend** comes from a case called McKenzie v McKenzie in 1970 where the court decided that an unrepresented party should be allowed to have a friend in court who was supporting him. Since then, the term has been used to describe someone providing moral and practical support to someone involved in a case who does not have a lawyer.

McKenzie Friends do not have to be legally qualified in any way. A family member or friend can be someone's McKenzie Friend.

Alternatively, some charities and support organisations provide McKenzie Friends for free, like the Personal Support Unit, some law centres or law schools. **See Useful contacts.**

Support workers and key workers who attend court with you to offer support may be providing McKenzie Friend assistance without realising this is what they are doing. This guide will help you understand what role that can play at court.

Some McKenzie Friends run businesses offering their services for a fee. These are sometimes called **paid McKenzie Friends** or **professional McKenzie Friends**. If you are thinking about paying for a McKenzie Friend, think about the questions raised in this guide before agreeing to give anyone money.

## What can a McKenzie Friend do?

McKenzie Friends can:

- **Be shown the court papers**  
Normally, papers in children proceedings are confidential and you are not allowed to show them to other people except in limited circumstances. You can show the papers to your McKenzie Friend to discuss them with her.
- **Go into court hearings with you and sit next to you at the front of the court**  
Your McKenzie Friend should only be excluded from a hearing with good reason. **See Can the court refuse to let me have a McKenzie Friend?** for when this might happen.
- **Provide moral support**
- **Take notes of what is said**  
If you find it difficult to make a note of what is said while you are speaking to the judge, your McKenzie Friend can do this for you. You may find it helpful later to remind yourself what was said in court.
- **Help with case papers**  
A McKenzie Friend can help you get your papers together and in the right order for hearings. They can help you find the right document during the hearing. They can help you with documents you need to prepare by discussing what you want to say in those documents. **See What can a McKenzie Friend not do?** to understand the limits of this.

- **Quietly give advice on the case**

This means that during a hearing, they can help you by quietly explaining or reminding you of things during the hearing. You could talk to them before the hearing about the points you want to make to the judge and ask them to keep track of whether there are any points you have forgotten to mention.

## What can a McKenzie Friend not do?

McKenzie Friends cannot:

- **Act as your agent in the case**  
This means that you cannot use your McKenzie Friend's address for letters or email. McKenzie Friends are not performing the role of a solicitor. You are unrepresented and have responsibility for managing your case and making decisions about how you do that. Any letters or documents that you need to send to the other side in the case or the court should come from you.
- **Manage your case outside court**  
As above, it is important that you are in charge of your own case. Helping with case papers, including helping with drafting papers is allowed, but you must sign documents yourself. If your McKenzie Friend is helping you to write documents, such as a witness statement, it is important to make sure that you are in charge of what is written and it is written in your words. You can talk to your

McKenzie Friend about what kind of information is required and they may help with things like typing a document.

- **Speak to the judge, make arguments in court or question witnesses**

This is called advocacy because someone is speaking to the judge on your behalf. You can speak to the judge because it is your case. If someone else is going to speak to the judge for you, they have to be given rights of audience by the court. In unusual circumstances, a McKenzie Friend can be given rights of audience. **See Can a McKenzie Friend speak to the court for the person they are supporting?** for when this might happen.

## What legal duties does a McKenzie Friend have?

McKenzie Friends are under a legal duty to maintain confidentiality about a case. This means they are not allowed to talk to other people about what they see or hear in court or read in the court papers.

McKenzie Friends must also confirm to the court that they have no interest in the outcome of the case.

For example, in a case about finances on divorce if you are saying that the deposit to buy your property was a loan from your brother, it would not be appropriate for your brother to be your McKenzie Friend. This is because he may financially benefit from the outcome of the case.

## Who can have a McKenzie Friend?

In family cases, any party in a case who is unrepresented can ask to use a McKenzie Friend. You will need to give reasons why you want a McKenzie friend but the court should not refuse your choice of McKenzie Friend without good reason.

See the section on **Can the court refuse to let you have a McKenzie Friend?** for more information about when the court stop you from having a McKenzie Friend.

## Who can be a McKenzie Friend?

Anyone can provide you with McKenzie Friend assistance, they do not have to be legally qualified. It could be a friend or family member.

If you have a domestic violence support worker, they could be your McKenzie Friend. Some domestic violence support services offer this support. Ask your support worker whether this is possible.

You are entitled to choose your own McKenzie Friend.

If you have a friend or are getting support from another organisation and would like them to be your McKenzie Friend, speak to them about this. You can show them this guide and our **Good Practice Briefing on Acting as a McKenzie Friend in the Family Court**.

## What do you do once you have chosen a McKenzie Friend?

If the person you would like to be your McKenzie Friend agrees, you should tell the court and the other parties in the case.

Your McKenzie Friend must give you a short CV or letter explaining who they are. You should give this to the court and the other parties in the case. In the letter, your McKenzie Friend should confirm that they understand the duty of confidentiality and that they do not have an interest in the case.

When you attend court, you should take the same letter or CV with you and tell the usher at court who your McKenzie Friend is. Give the usher a copy of the letter or CV to show the judge.

## Can the court refuse to let you have a McKenzie Friend?

Not without good reasons.

There is a strong presumption that unrepresented parties can have a McKenzie Friend. This means that if the court is going to refuse your McKenzie Friend, they must have a good reason for doing this.

If the court or the other party raises concerns about your McKenzie Friend, the court should deal with this at the start of the hearing. Your McKenzie Friend can come in to court for this part of the hearing and hear the reasons why they are not allowed to be your McKenzie Friend.

The guidance states that the following should **NOT** be used as reasons to refuse a McKenzie Friend:

- the case is simple or the hearing is straightforward
- you do not appear to need assistance
- you have chosen not to have legal representation
- the other party is not represented
- your McKenzie Friend belongs to an organisation that promotes a particular cause
- the proceedings are confidential and the court papers contain sensitive information relating to your family

None of these are good enough reasons to refuse your McKenzie Friend. If you are worried that the court might refuse your McKenzie Friend, you can take the guidance with you to show to the court. You can find the Court's guidance here: [www.judiciary.uk/publications/mckenzie-friends](http://www.judiciary.uk/publications/mckenzie-friends)

A McKenzie Friend can be refused because they are undermining the efficient administration of justice.

Examples of this may be:

- the assistance is being provided for an improper purpose
- the assistance is unreasonable in nature or degree

- the McKenzie Friend is subject to a civil proceedings order or a civil restraint order (these are orders which restrict someone's access to the court)
- the McKenzie Friend is using the party as a puppet
- the McKenzie Friend is directly or indirectly conducting the case
- the court is not satisfied that the McKenzie Friend fully understands the duty of confidentiality

## Can a McKenzie Friend speak to the court for the person they are supporting?

Speaking to the judge directly about the case or questioning witnesses is advocacy. A person must have rights of audience to be able to do this.

McKenzie Friends can be granted rights of audience by the court in unusual circumstances. The court must have a good reason to do so. Examples of when this might happen are:

- your McKenzie Friend is a close relative
- you have particular health problems that make it difficult for you to speak to the judge and you cannot afford a solicitor or barrister;
- you struggle with communication and prompting by your McKenzie Friend may unnecessarily prolong the hearing.

It should only be in exceptional circumstances that a paid McKenzie Friend is granted rights of audience. It should rarely happen that a paid McKenzie Friend is allowed to question a witness for you.

## What is a paid McKenzie Friend?

**Paid McKenzie Friends** or **professional McKenzie Friends** is someone who gets paid to provide McKenzie Friend assistance. They often run businesses to provide McKenzie Friend services.

Solicitors are regulated by the **Solicitors Regulation Authority**. Barristers are regulated by the **Bar Standards Board**. They have to comply with their own codes of conduct and have to have insurance in case something goes wrong. If you are not happy with the way your solicitor or barrister has managed your case, you can complain and there are professional bodies who can follow up your complaint. They are also insured so you will receive compensation for losses caused by your lawyer failing to do their job properly.

Paid McKenzie Friends are not required to have any training, they do not have to comply with a code of conduct and are unregulated. They are also uninsured. This means that if they do a poor job and this causes harm to your case or you lose money then you are unlikely to receive compensation. Therefore, it is important to understand what you are paying for before agreeing to give anyone money.

Before agreeing to pay for a McKenzie Friend, think about the following questions:

**Have you checked whether you can get legal aid?** Assessments for legal aid are complicated and unless it is very clear that you are not able to get legal aid, it may be worth asking a legal aid solicitor to assess your financial circumstances. As a starting point, you can use the online eligibility calculator found here: <https://civil-eligibility-calculator.justice.gov.uk/> and see **A Guide to Family Law Legal Aid**.

**Can you get the same service for free?** For example, do you have a friend that could be your McKenzie Friend? If you are getting support from a domestic violence support service, can they come to court with you? Have you asked a charity such as the Personal Support Unit or your local law centre?

**Have you done your internet research?** What is the McKenzie Friend's motivation for doing the work? Have a look at their website. What is their experience? What has led them to working as a McKenzie Friend? Not all McKenzie Friends will have a good understanding of domestic abuse. Check to see if there are any concerning reviews about this McKenzie Friend online.

**How much is the McKenzie Friend charging?** Lots of solicitors are now offering 'unbundled' services. This means that they will charge smaller fees for individual pieces of work. Some McKenzie Friends charge more than a junior or trainee solicitor and the prices that they state solicitors charge are not indicative of every solicitor. Having a trainee solicitor prepare documents at a lower fee may be more cost effective when you take into

account that all trainee solicitors should be supervised by experienced solicitors and you have the added protection of them being regulated and insured. Think about whether it would be more sensible to pay for 1-2 hours of comprehensive advice from a solicitor and then continue the case by yourself than to pay ongoing fees to a McKenzie Friend who is not able to provide the same level of legal advice.

**Are you clear what the fees cover?** If you decide to pay for a McKenzie Friend, make sure you are clear what the fees you are paying cover. Ask them if they have professional indemnity insurance. Some paid McKenzie Friends choose to get insurance to cover the work they do. Ask the McKenzie Friend to put all of this information in writing.

**Are they a member of the Society of Professional McKenzie Friends?** McKenzie Friends can apply to become members of this organisation and must sign up to their code of conduct. They have a complaints process if something goes wrong. Rights of Women are unable to comment on how effective the Society of Professional McKenzie Friends is as a self-regulatory body.

## How to deal with a McKenzie Friend who is supporting the other party in your case

The rules set out in this guide about McKenzie Friends apply no matter who they are helping.

You do not have to respond to the McKenzie Friend if you do not want to

(unless the court has ordered you to do so, and this would be very rare). If the McKenzie Friend has raised reasonable issues or is providing information in relation to the case that you want to respond to, send your response directly to the other party. Remember that it is the other party that is responsible for their case, not their McKenzie Friend. You can tell the other side to ask their McKenzie Friend to stop writing to you.

If a McKenzie Friend is emailing or writing to you directly, especially if the other party is not included in the letters or emails, you should tell the court about this. They may be acting as the other party's agent or conducting the case on their behalf.

If you are worried that the McKenzie Friend is breaching the rules that are explained in this guide, you can ask the court to refuse the McKenzie Friend chosen by the other party. You will have to explain to the court what they are doing.

Depending on the circumstances, the court may initially decide to warn the McKenzie Friend.

If the court agrees that the McKenzie Friend is making things more difficult for the court or for the case to progress, they can refuse to permit them to continue as the other party's McKenzie Friend (even in the middle of the hearing itself).

Aggressive, threatening and harassing behaviour is a criminal offence. If you feel threatened or harassed by the other party's McKenzie Friend, you can contact the police.





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.

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For confidential legal advice on family law:

Women living and working in London: call **020 7608 1137** the advice line is open **Mon 11am–1pm**, and **Tues 2-4pm**, **Wed** and **Thurs 10am-12noon** and **2pm-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 law visit **[www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk)** for our advice line details.

## Useful contacts

### Emergency Contacts

#### Police (emergency)

999

#### 24 hour domestic violence helpline

0808 200 0247

[www.nationaldomesticviolencehelpline.org.uk](http://www.nationaldomesticviolencehelpline.org.uk)

### Finding a solicitor

#### The Law Society

0207 320 5650

[www.lawsociety.org.uk/find-a-solicitor](http://www.lawsociety.org.uk/find-a-solicitor)

#### Public Access Portal

[www.directaccessportal.co.uk](http://www.directaccessportal.co.uk)

#### Ministry of Justice

020 3334 3555

[www.find-legal-advice.justice.gov.uk](http://www.find-legal-advice.justice.gov.uk)

#### Resolution

01689 820272

[www.resolution.org.uk](http://www.resolution.org.uk)

### Legal advice and support

#### Citizens Advice

[www.citizensadvice.org.uk/index/getadvice.htm](http://www.citizensadvice.org.uk/index/getadvice.htm)

#### Law Centres Network

020 7749 9120

[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

#### LawWorks Clinic Network

[www.lawworks.org.uk](http://www.lawworks.org.uk)

#### Advocate (previously the Bar Pro Bono Unit)

[www.weareadvocate.org.uk](http://www.weareadvocate.org.uk)

#### Personal Support Unit

020 7947 7701

[www.thepsu.org](http://www.thepsu.org)

#### Disability Law Service

020 7791 9800

[www.dls.org.uk](http://www.dls.org.uk)

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