

FAMILY LAW ARBITRATION CHILDREN SCHEME

FORM ARB1CS – 3RD EDITION (EFFECTIVE 1 JULY 2018)

APPLICATION FOR FAMILY ARBITRATION, CHILDREN SCHEME

1. We, the parties to this application, whose details are set out below, apply to the Institute of Family Law Arbitrators Limited for the nomination and appointment of a sole arbitrator from the IFLA Children Panel ('the Children Panel') to resolve the dispute referred to at paragraph 3 below by arbitration in accordance with the Arbitration Act 1996 ('the Act') and the Rules of the Family Law Arbitration Children Scheme ('the Children Scheme'). We confirm that all the persons who have parental responsibility for the child(ren) concerned are parties to this arbitration.

Applicant's name	
Address	
Telephone	
Mobile	
Email	
Fax	
Represented by*	
Address	
Telephone	
Mobile	
Email	
Fax	

And:

Respondent's name	
Address	
Telephone	

Mobile	
Email	
Fax	
Represented by*	
Address	
Telephone	
Mobile	
Email	
Fax	

*Delete as applicable.

Add, if necessary, the names of other parties on a separate sheet.

2. The child(ren) concerned is/are:

Please insert names and dates of birth and relationship of each child to the parties and whether (as regards each party) they have parental responsibility. Please also state the current location of each child.

.....
.....

3. The dispute concerns the following issue(s):

(Set these out on a separate sheet if preferred, but as concisely as possible.)

.....
.....
.....

Please complete EITHER paragraph **4(a)** OR **4(b)** OR paragraph **5** below:

4(a) We wish to nominate the following member of the Children Panel for appointment in this matter:

(This paragraph applies if the parties agree that they would like the matter to be referred to a particular arbitrator and / or have approached a particular arbitrator directly. The appointment will be offered to the nominated arbitrator. If the appointment is not accepted by their first choice of arbitrator the parties may, if they agree, make a second or subsequent choice. Otherwise, it will be offered to another suitable member of the Children Panel in accordance with paragraph 5 below.)

.....

4(b) We wish the Institute of Family Law Arbitrators Limited to select one of the members of the Children Panel from the agreed shortlist below for appointment in this matter:

(This paragraph applies if the parties have agreed on a shortlist of arbitrators from the Children Panel any one of whom would be acceptable to them, and wishes IFLA to select one of the arbitrators on the shortlist without reference to any criteria. In this case, IFLA will offer the appointment to one of the shortlisted arbitrators chosen at random. If the appointment is not accepted by the first choice of arbitrator, IFLA will offer the appointment to a second or subsequent shortlisted arbitrator, similarly chosen at random. If none of the shortlisted arbitrators accepts the appointment, IFLA will inform the parties and invite them to submit further agreed names.)

.....

.....

.....

5. We wish the Institute of Family Law Arbitrators Limited to nominate a member of the Children Panel for appointment in this matter.

(This paragraph applies if the parties have not identified a particular arbitrator to whom they wish the matter to be referred. Please set out below the nature of the dispute (insofar as it is not apparent from paragraph 3 above). Please also set out below any preferences as to the arbitrator's qualifications, areas of experience, expertise and / or any other attributes; or as to the geographical location of the arbitration; and any other relevant circumstances.)

.....

.....

.....

6. **If any court proceedings are current in relation to the child(ren), or your marriage or relationship, please identify the nature of the proceedings, in which court they are taking place and what stage they have reached.** (Please attach copies of any relevant documents and court orders.)

.....
.....

7. **Please carefully read paragraphs 8.3(a)-(d) below and provide with this Form (or in respect of the Basic Disclosure, upon receipt):**

- **a Safeguarding Questionnaire (as attached to this Form) completed and signed by each party, together with any relevant documentation;**
- **a Basic Disclosure from Disclosure Scotland in relation to each party; or alternatively, an up to date CAFCASS report or Schedule 2 letter prepared in current proceedings concerning the safeguarding and welfare of the child(ren), if applicable;**
- **any other relevant letter or report prepared by CAFCASS or any local authority children’s services department or similar agency in relation to the safeguarding or welfare of the child(ren) concerned (if there is one).**

8. **We confirm the following:**

8.1 We have been advised about and understand the nature and implications of this agreement to arbitrate;

8.2 Once the arbitration has started, we will not commence court proceedings or continue existing court proceedings in relation to the same subject matter (and will apply for or consent to a stay of any existing court proceedings, as necessary), unless it is appropriate to make an application to the court arising out of or in connection with the arbitration, or some relief is required that would not be available in the arbitration;

8.3 **We have read the current edition of the Rules of the Children Scheme (‘the Rules’) and will abide by them. In particular, we understand our obligations:**

- (a) **to provide accurate information regarding safeguarding in this Form and in the attached Safeguarding Questionnaire;**
- (b) **before the arbitration starts, to obtain a Basic Disclosure from Disclosure Scotland and promptly send it to the arbitrator and to**

every other party; or alternatively, to provide an up to date CAFCASS report or Schedule 2 letter prepared in current proceedings concerning the safeguarding and welfare of the child(ren), if applicable;

- (c) to send to the arbitrator and to every other party any other relevant letter or report prepared by CAFCASS or any local authority children's services department or similar agency in relation to the welfare or safeguarding of the child(ren) concerned.**
- (d) before the arbitration starts and at every stage of the process (as a continuing duty) to disclose fully and completely to the arbitrator and to every other party any fact, matter or document in our knowledge, possession or control which is or appears to be relevant to the physical or emotional safety of any party or to the safeguarding or welfare of any child the subject of the proceedings, or to a decision by the arbitrator whether to terminate the arbitration under Art.17.2.1. Such disclosure shall include (but not be limited to) any criminal conviction, caution or involvement (concerning any child) with children's services in respect of any party or any person with whom the child is likely to have contact;**
- (e) at all stages of the process, to comply with the decisions, directions and orders of the arbitrator;**

8.4 We understand and agree that any determination of the arbitrator appointed to determine this dispute will be final and binding on us, subject to the following:

- (a) any challenge to the determination by any available arbitral process of appeal or review or in accordance with the provisions of Part 1 of the Act;
- (b) insofar as the subject matter of the determination requires it to be embodied in a court order (see 8.5 below), any changes which the court making that order may require;
- (c) any subsequent determination superseding the determination; or any changes to the determination or subsequent order superseding the determination which the Family Court considers ought to be made in the exercise of its statutory and/or inherent jurisdiction whether under the Children Act, 1989 or otherwise.

8.5 If and so far as the subject matter of the determination makes it necessary, we will apply to an appropriate court for an order in the same or similar terms as the determination or the relevant part of the determination. (In this context, 'an appropriate court' means a court which has jurisdiction to make a substantive order in the same or similar terms as the determination.) We understand that the

court has a discretion as to whether, and in what terms, to make an order and we will take all reasonably necessary steps to see that such an order is made;

8.6 We understand and agree that although the Rules provide for each party, generally, to bear an equal share of the arbitrator's fees and expenses (see Art.14.4(a)), if any party fails to pay their share, then the arbitrator may initially require payment of the full amount from any other party, leaving it to them to recover from the defaulting party;

8.7 We agree to the arbitration of this dispute in accordance with the Rules of the Children Scheme.

IMPORTANT

Parties should be aware that:

- **By signing this form they are entering into a binding agreement to arbitrate (within the meaning of s.6 of the Arbitration Act 1996).**
- **After signing, neither party may avoid arbitration (unless they both agree to do so). Either party may rely on the arbitration agreement to seek a stay of court proceedings commenced by the other.**
- **Arbitration is a process whose outcome is generally final. There are very limited bases for raising a challenge or appeal, and it is only in exceptional circumstances that a court will exercise its own discretion in substitution for the determination.**

Signed.....
(Applicant *or* Applicant's legal representative, for and on behalf of Applicant)

Dated.....

Signed.....
(Respondent *or* Respondent's legal representative, for and on behalf of Respondent)

Dated.....

Please send your completed form, preferably by email, to info@ifla.org.uk, or it can be sent by post to IFLA, 91-95 Southwark Bridge Road, London SE1 0AX.

Note that by submitting this Form, the parties consent to the processing by IFLA (and/or by Resolution, on IFLA's behalf) of the information and personal data provided in it and in associated documentation for the purposes of this Children Scheme arbitration. This includes retaining and storing the information and personal data for as long as is necessary in connection with this agreement. It may also be retained for research, training and statistical purposes in connection with family arbitration, but on the understanding that if so used, any information or details about individuals will have been removed so that they cannot be personally identified.

FAMILY LAW ARBITRATION CHILDREN SCHEME

FORM ARB1CS SAFEGUARDING QUESTIONNAIRE

Each party should complete and individually sign a copy of this Safeguarding Questionnaire.
(Please make further copies as necessary.)

Name

Applicant / Respondent / Other Party

1. Have there been any court proceedings in relation to the child(ren), or your marriage or relationship, other than as mentioned in paragraph 6 of Form ARB1CS?
Yes / No

(If 'Yes', please identify the nature of the proceedings, in which court they took place and the outcome. Please attach copies of any relevant documents and court orders.)

.....
.....

2. Has a child protection plan been put in place by a local authority in relation to the child(ren), or have a local authority's children's services been involved in any way?
Yes / No, or not to my knowledge

(If 'Yes', please provide details and say whether the local authority's involvement is continuing.)

.....
.....

3. Have you, or any person with whom the child(ren) is/are likely to have contact ever been convicted of an offence concerning a child, or ever been cautioned or investigated in that connection?

Yes / No

(If 'Yes', please provide full details.)

.....
.....

4. Do you have any concerns that the child(ren) has/have experienced, or is/are at risk of experiencing, harm of any the following kinds from any person with whom the child(ren) is/are likely to have contact?

- | | |
|-------------------------------------|----------|
| • Any form of domestic violence | Yes / No |
| • Child abduction | Yes / No |
| • Child abuse | Yes / No |
| • Drugs, alcohol or substance abuse | Yes / No |
| • Other safety or welfare concerns | Yes / No |

(If 'Yes' to any of the above, please provide full details of your concerns.)

.....
.....

I confirm that:

(a) the information I have provided in response to this Safeguarding Questionnaire is true and complete to the best of my knowledge and belief;

AND

(b) I have applied to Disclosure Scotland for a Basic Disclosure and, upon receipt, will promptly send it to the arbitrator and to every other party;

OR

**I attach an up to date CAFCASS report or Schedule 2 letter prepared in current proceedings concerning the safeguarding and welfare of the child(ren).
(Please delete whichever is inapplicable.)**

Signed

Dated