

Legal Services Commission Manual – paragraph 3C-198

Scope of certificate – forum and generally

16. Unless there are particular or sufficient reasons to do otherwise, proceedings should be commenced in the family proceedings court where it has jurisdiction.

17. It may be appropriate to commence proceedings other than in the family proceedings court where:

- a) other family proceedings are already pending in another court;
- b) proceedings are imminent in the county court eg divorce proceedings, and the proceedings should be heard together;
- c) an order made by another court is to be varied, extended or discharged by that court;
- d) the application to the court relates to a child in care and therefore has to be issued in the court which made the care order;
- e) the position is covered by a Practice Direction
- f) an injunction ancillary to Children Act proceedings is sought;
- g) the anticipated remedy sought is not available in the family proceedings court;
- h) the proceedings are exceptionally grave or complex;
- i) some novel or difficult point of law is involved.

18. A condition may also be inserted that proceedings be commenced in the County Court (rather than the High Court), subject to any transfer by the court in accordance with the [Children \(Allocation of Proceedings\) Order 1991](#) [Allocation and Transfer of Proceedings Order 2008](#). In the event of such a transfer no amendment to the certificate is needed.

19. If no condition or forum for the conduct of the proceedings is included on a certificate the proceedings may, without specific amendment, be commenced and subsequently conducted in the court considered to be most appropriate, including in accordance with any transfer directed by the court, for example from the County Court to the Family Proceedings Court.

20. A certificate will only cover representation on those section 8 orders which are specified on the certificate (rather than all section 8 orders) or which are made by the court of its own motion. If more than one section 8 order is sought information must be provided to justify the grant on all aspects as otherwise Legal Representation may be refused or partially refused. Injunction applications are only covered where specified.

21. Only one substantive residence, contact or other section 8 order as specified is within the scope of the certificate. A specific amendment is needed to apply for any further application. Cover includes any review or further consideration of the matter by the court which, in the particular circumstances of the case, constitutes a restoration of the matter on the court's own motion – but not any fresh application made to the court in that context. The certificate can, however, be specifically amended to cover a further application to the court.

[22. Certificates covering proceedings regarding the making, variation or discharge of a contact order also cover representation on contact activity](#)

directions, contact activity conditions, monitoring compliance and monitoring contact within section 11A to 11H Children Act 1989 without the need for a specific amendment. Representation on the making, revocation, amendment or breach of an enforcement order under section 11J and Schedule A1 or an application for compensation for financial loss under section 11O Children Act 1989 are not within the usual scope of a certificate and a specific amendment is required to take or defend the application for an enforcement order or compensation. The statutory charge applies in the usual way and any recovery is not exempt. Applications for amendment or initial cover are subject to Funding Code Criterion 11.11 (Private Law Children Cases).

223. Where the prospects of success are unclear at the time of application for funding but are sufficient to justify the grant of certificated funding, Family Help (Higher) will be the appropriate level of service.