



Changes to DNA tests which are directed under section 20 of the Family Law Reform Act 1969

What is changing?

From 23 November 2015 Cafcass and CAF/CASS Cymru are able in defined circumstances to facilitate the provision of DNA tests which are directed under section 20 of the Family Law Reform Act 1969 (the Act) by Courts in England and Wales. In those cases the cost of the DNA testing will not fall on the parties to the proceedings (it will be met by Cafcass in England and the Ministry of Justice in Wales via Cafcass Cymru). The service will be limited to the following circumstances:

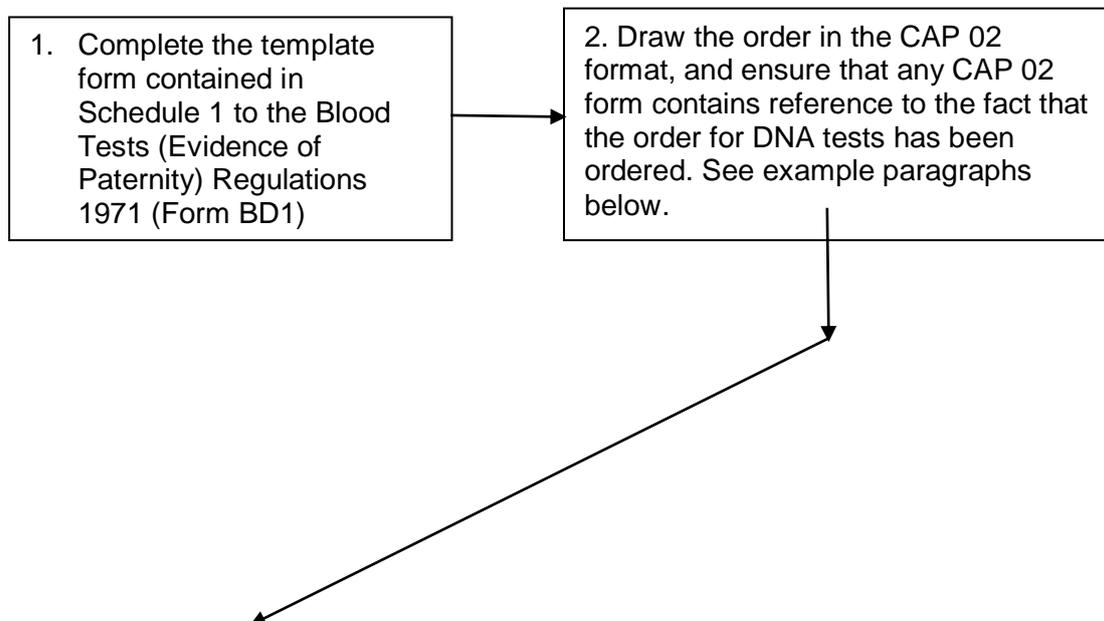
- a. An application has been made for a Child Arrangements order under section 8 of the Children Act 1989, and
- b. The application cannot be determined unless a dispute about the paternity of the child is resolved and
- c. The parents or persons with care of the child are prepared to cooperate with the direction made by the court.

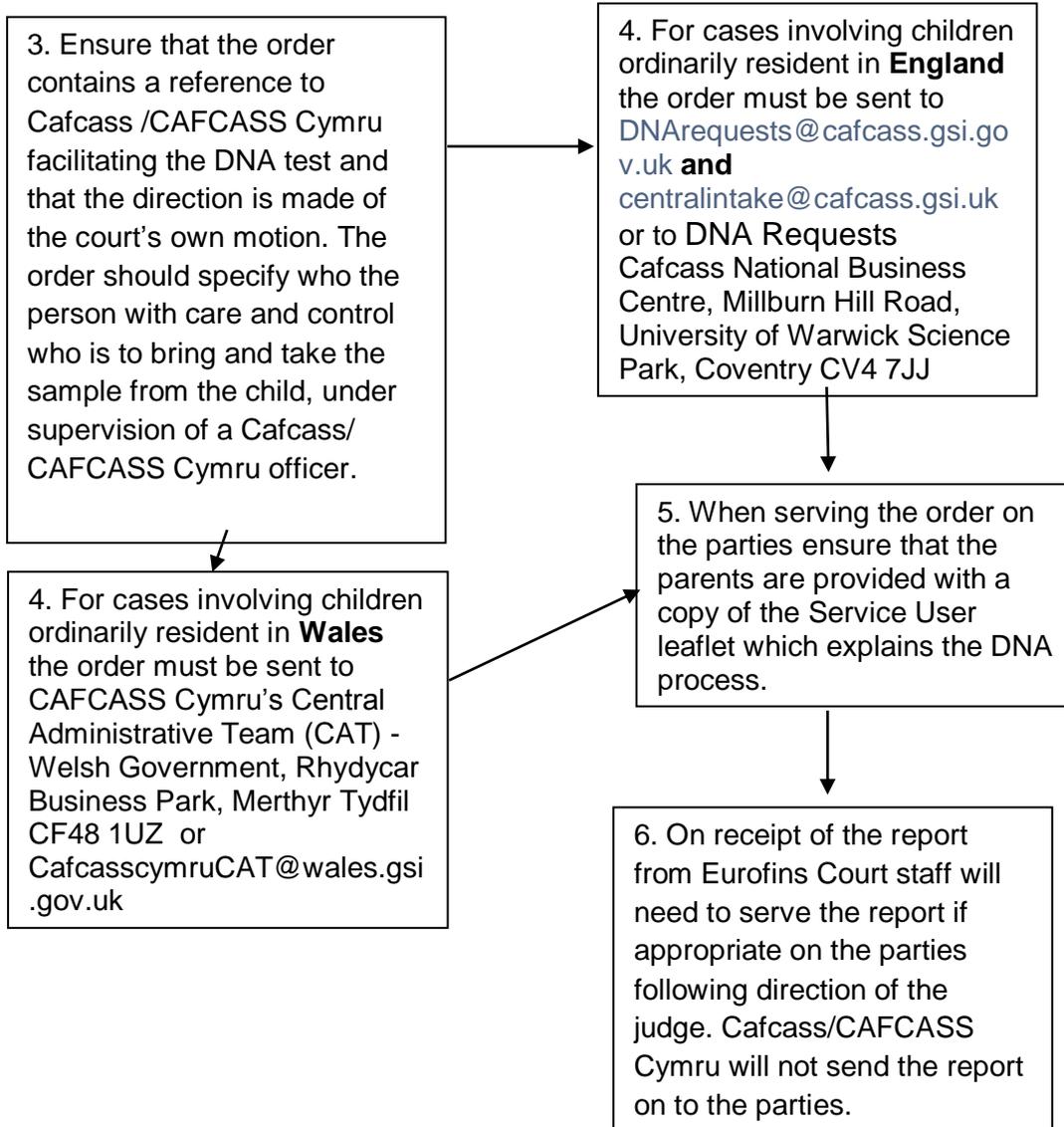
Cafcass/CAF/CASS Cymru will arrange with the parties for the sample to be obtained, and tested in accordance with MoJ regulations for Court ordered tests. Cafcass have a contract with Eurofins Medigenomix Forensik GMBH in Germany to undertake the test (this is an MoJ accredited Laboratory).

What does this mean for HMCTS staff?

A defined process for notifying Cafcass and Cafcass CYMRU of the order, and the action HMCTS staff should take on the receipt of the report from Cafcass/Cafcass CYMRU, is set out below.

If when dealing with an application for a Child Arrangements order the Judge concludes that a determination cannot be reached without a DNA test court staff should:





Wording for CAP02

The CAP02 template is currently being updated, and in the interim the following paragraphs can be used to amend the existing CAP02

DNA TESTING CLAUSE

The court needs a report to ascertain whether.....is the [father/ mother] of.....

A tester¹ needs samples from.....and.....so that they can carry out their tests and prepare a report, so:

¹ As defined in the Blood Tests (Evidence of Paternity) Regulations 1971

Option 1 – to be completed where the court is ordering DNA testing on the application of a party and so Cafcass/ CAF/CASS Cymru are not facilitating the DNA testing:

- a) the court officer must complete Parts I and II of the standard court form BD1 and send this to(the applicant)
- b) the applicant must contact a tester and make arrangements for a sampler² to obtain samples by..... (date)
- c) at the time the samples are obtained, the person giving the samples must provide to the sampler:
 - the form BD1
 - a copy of this order
 - photo identity
- d) the sampler must send the samples to the tester by (date)
- e) the tester must send the written report to the court by (date).
- f) the costs of the sampling, testing and report must be paid by(the applicant) and [*delete if not applicable*] shall be a necessary and reasonable charge against the public funding certificate of(the applicant)”

Option 2 – to be completed where the court is ordering DNA testing of its own motion and so Cafcass/ CAF/CASS Cymru are to be asked to facilitate DNA testing:

As the dispute regarding parentage has arisen in relation to an application for a child arrangements order and as the court has made the above direction for a report on parentage of its own motion, as a test is considered reasonably required to resolve the proceedings:

- a) the court officer must complete Parts I and II of the standard court form BD1 and send this to:
(*where the child whose parentage is in dispute is resident in England*):
DNA Requests, Cafcass National Business Centre, Millburn Hill Road,
University of Warwick Science Park, Coventry, CV4 7JJ
DNArequests@cafcass.gsi.gov.uk. (Telephone number 0300 456 4000)

OR

(*where the child whose parentage is in dispute is resident in Wales*): Central Administrative Team, Welsh Government, Rhydycar Business Park, Merthyr Tydfil CF48 1UZ - CafcasscymruCAT@wales.gsi.gov.uk

- b) an officer of Cafcass/ CAF/CASS Cymru must then make arrangements with (name(s)) for mouth swab samples to be given by (date), supervised by a trained officer of Cafcass/ CAF/CASS Cymru
- c)..... (name(s)) must allow the officer of Cafcass/ CAF/CASS Cymru to take photographic evidence of his/her identity at the time the sample is obtained
- d) the officer of Cafcass/ CAF/CASS Cymru must send the samples to the tester to arrive no later than (date)
- e) the tester must send their written report to the court by (date)
- f) the costs of the sampling, testing and report will be paid for by Cafcass in respect of proceedings in England and by the Ministry of Justice in respect of proceedings in Wales.

² As defined in the Blood Tests (Evidence of Paternity) Regulations 1971.