

Children and the Court

Separation is an emotionally challenging period, not only for the adults involved, but also for any children in the family. Making sensible, practical arrangements for children to continue to see both their parents is, in the vast majority of cases, the best outcome for them.

We can assist you with those arrangements by facilitating mediation sessions with both parents with a view to reaching agreement regarding all matters concerning your children without the emotional upset, expense and delay often caused by the court process. Mediation can be a successful way of achieving agreement and allows you to stay in control of the process.

It is not always possible to achieve an agreement and the only option is to make an application to the courts to resolve the issues you face.

From 22 April 2014 the Child Arrangements Programme came into effect. This applies where a dispute has arisen between separated parents and/or families about arrangements concerning children. The Programme has been designed to assist families reach safe and child-focused agreements for their child, where possible out of the court setting.

Where there is any dispute over arrangements for the children it will become compulsory for couples to seek assistance from Dispute Resolution Services and to try and enter into a Parenting Plan to resolve those issues.

It has also become compulsory for the person considering making an application to the court to attend a "Mediation Information and Assessment Meeting" unless (in very limited circumstances), it is inappropriate for you and your ex-partner or spouse to do so. A prospective Respondent to the application is also expected to attend a MIAM either with the Applicant or separately.

When the court is asked to determine any application concerning a child, the court's primary consideration is the child's welfare. The court will not make an order unless it considers that doing so would be better for a child than not making an order.

When a Court is considering the child's welfare it must have regard to a checklist which is set out in the Children Act 1989 as follows:-

- (a) the ascertainable wishes and feelings of the child concerned (considered in the light of the child's age and understanding);
- (b) the child's physical, emotional and educational needs;
- (c) the likely effect on the child of any change in the child's circumstances;
- (d) the child's age, sex, background and any characteristics of the child which the Court considers relevant;
- (e) any harm which the child has suffered or is at risk of suffering;
- (f) how capable each of the child's parents, and any other person in relation to whom the Court considers the question to be relevant, is of meeting the child's needs;
- (g) the range of powers available to the Court under the Children Act in the proceedings in

question.

Resolution of dispute arrangements for children through the Court

The judge will be obliged to consider at every stage of the proceedings, whether non-court dispute resolution is appropriate. The court will be able to direct that proceedings are adjourned for such specified period as it considers appropriate:

- (1) To enable the parties to obtain information and advice about non-court dispute resolution; and
- (2) Where the parties agree, to enable non-court dispute resolution to take place.

Child Arrangement Orders

From 22 April 2014 Residence Orders and Contact Orders became a thing of the past and only Child Arrangement Orders can now be made. These new orders will cover arrangements for where a child should live and also detail the arrangements for the time a child will spend with both parents.

Specific Issue Orders

This order determines a specific issue that the parents cannot agree, such as which school a child should attend or whether one parent can take a child out of the country for an extended holiday. There are a very wide number of orders the court can make under this heading.

Prohibited Steps Orders

This order determines that something must not happen or must not be done in respect of a child, such as preventing one parent taking a child abroad, or changing their surname.