

Child Law

What will happen to the children is the most worrying question most clients raise on a family breakdown. Who gets the children? Do I get any financial support? What if the other parent stops seeing them? What if the other parent is a risk to them?

Our specialists can answer all of the above queries and advise as to the best way forward for you.

Child Law

The family court will never get involved in matters relating to the arrangements for children on a family breakdown, unless there is a real need to do so. The law encourages parents to continue to work together even after separation to meet the needs of their children. This is not always possible.

We can advise on sensible arrangements for children based on your circumstances and our knowledge of the law and local Judges view's on matters. The Children Act 1989 sets out the law in relation to most elements of issues around child arrangements.

The general rule is that a child has a right to know and have time with both parents and their family members as long as it is safe and in their best interest to do so.

If parents cannot reach an agreement regarding where a child is to live or what time they should spent with the other, then either parent can apply to the Court for a **Child Arrangements Order**.

If parents cannot agree on other issues relating to Parental Responsibility then they can apply for a **Specific Issue Order**. These cover issues relating to education, names, medical care, whether they can leave the country and so on.

If a parent needs to prevent the other from exercising their Parental Responsibility they can do so by making an application for a **Prohibited Steps Order**. This prevents an intended removal from the UK, bringing the child into contact with somebody or exercising any other specific parental discretion.

Parental Responsibility

Parental Responsibility is the term used to describe the rights and responsibilities a person has for a child. All mothers have Parental Responsibility for their children, and these days so do most Fathers. However, not all do.

For a Father to have Parental Responsibility they should have:-

- married to the child's mother; or
- jointly registered the birth of the child with the mother (for children born after 1st December 2003); or
- a parental responsibility agreement with the mother; or
- a parental responsibility order from a court.

When a person has Parental Responsibility they are entitled to be involved in all key decisions about the child's education, place of residence, medical treatment, religion, name and whether the child can leave the country. If all persons with Parental Responsibility cannot agree on these issues, then either party would need to make an application to the Court for a Judge to decide what is in the child's best interests.

Having Parental Responsibility does not however, mean that separated parents need to agree on all day to day issues such as routines and diet etc. These practical decisions need to be made by the parent who has the care of the child at the time.

Parental Responsibility for Same-Sex Partners and Civil Partnerships

Civil partners will have Parental Responsibility for the child if they were civil partners at the time of the donor insemination or fertility treatment.

If they were not married the other parent can obtain Parental Responsibility by applying to the courts for Parental Responsibility if a Parental Agreement was made between them.

If same-sex parents enter into a civil partnership after the time of treatment, they other parent can obtain Parental Responsibility on entering into the Civil partnership and thereafter making a parental responsibility agreement or jointly registering the birth.

Children Act Court Proceedings

If you cannot agree arrangements with the other parent, either directly, through solicitors or at mediation, then it is sometimes necessary to issue court proceedings with a Children Act Application. This invites the court to intervene and make orders which it believes are in the best interest of the children.

The Court can make orders in relation to where a child should live, what amount of time they should spend with the other parent (Child Arrangement Orders), what education they receive, whether they can change their name, if they should receive medical care, what religion they should be brought up in, if they can leave the country and many other issues (Specific Issue Orders). They can also exclude a parent from doing something or someone coming into contact with the child (Prohibited Steps Order) where a risk is presented which means it is just to do so.

The court will investigate all potential risks posed to the children which relate to the application through CAFCASS. They will produce an initial report setting out any involvement of the police, social services or safeguarding concerns relating to drugs, alcohol and violence. Once the Court has this information they will decide if there are any matters raised which require further investigation by Cafcass (or Social Services if they have a live case) before they can make any orders. Only once the Court is satisfied it has the right assessment of the child's circumstances will it make any legally binding final orders.

Grandparents Rights

Unfortunately, arguments with parents and their adult children arise and this can sometimes mean that the grandchildren's contact gets stopped.

Grandparents do not have an automatic right to apply to the Court for an Order relating to their grandchildren. However, we are able to advise and assist in obtaining permission from the Court and making an application for your contact to be reinstated.

Sometimes it is necessary for a grandparent to make an application to the court for a Child Arrangements Order for their grandchild to live with them. In these situations we can assist and as part of the process obtain Parental Responsibility for the grandchild where the application is successful to enable the Grandparent to obtain information from and make decisions with key agencies such as schools, GPs etc.

Proceedings follow a similar format to usual Children Act proceedings once permission is granted.

Legal Aid

Private law children matters include where a child lives and who a child spends time with. In the legal aid cuts, funding was removed for this area of law. However, if you meet certain criteria, then you may still be eligible. You would need to show evidence that:

- Your opponent has an unspent conviction for a child abuse offence; or
- Your opponent is on police bail or has caution for a child abuse offence; or
- Your opponent has ongoing criminal proceedings; or
- There is an injunction or undertaking in place; or
- There has been a finding of fact where findings have been made against your opponent; or
- You have a letter from social services confirming that your opponent is a risk to the children; or
- You have a child protection plan from social services that shows that your opponent is a risk to the children.

In order to obtain evidence of this, sample letters are available [online](#).

Legal Aid also remains available for mediation regarding children matters.

**Why not contact our specialists, Carly or Julie
for no obligation appointment?**

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