

CHILDREN

When couples separate and have children, there are often significant issues that need to be addressed, such as where the child or children will live or how much time they will spend with each parent. There may even be issues relating to the child's welfare.

CHILD ARRANGEMENTS

You do not have to do any official paperwork if you agree about child arrangements.

If you want a record or a legally binding agreement, we can record the agreed arrangements in a Parenting Plan or consent order. A consent order is a legal document that you and your ex-partner will have to sign, and it will need to be submitted to the court to be approved.

You may wish to speak with a Mediator to help you reach an agreement. In most cases, before you can apply to the court for an order, you will need to attend a MIAM meeting with a mediator in any event.

If it is impossible to reach an agreement regarding child arrangements, you can apply to the court for a Child Arrangements Order.

WHAT IS A CHILD ARRANGEMENTS ORDER?

A Child Arrangements Order (CAO) is an order that regulates arrangements for a child, for example, where your child lives, when your child spends time with each parent or when and what other types of contact may take place, for example, phone calls or overnight contact

WHO CAN APPLY?

You can apply for a Child Arrangements Order if you are the child's mother, father or anyone with parental responsibility. You can also apply if you are a grandparent, but you will need to get permission from the court first.

Others who may apply include step-parents if the child is a family child or if you have lived with the child for three years or longer. Relatives of a child may also apply if they have lived with the child for one year immediately preceding the application.

WHAT IS THE COURT PROCEDURE?

An application for a child arrangements order is lodged with the court and details your case, the orders you are asking the court to make, and why.

When the court receives the application, it will set a time and place for a directions hearing. This is called a "First Hearing Dispute Resolution Appointment" (FHDRA) when all parties must attend.

At the FHDRA, the court investigates the issues, enquires into the possibility of settlement and gives directions about how the case should proceed. If agreement cannot be reached at the FHDRA, or if there are concerns regarding the child's welfare, the court will set a timetable for what happens next.

For example, the court might order statements are filed and/or a Cafcass (Children and Families Court Advisory and Support Service) officer prepares a report. After that, there will generally be another hearing called a dispute resolution appointment (DRA). The DRA may be used as a final hearing, but ultimately, the court will fix a final hearing.

HOW DOES THE COURT DECIDE WHAT SHOULD HAPPEN?

The first concern of the court is the child's welfare. The Children Act 1989 provides a list of considerations for the judge who has to decide the case, which helps guide them in making a decision. The court will only grant a child arrangements order if it is in the child's best interests.

If you reach an agreement at any stage, the court can stop the process.

An order regulating with whom your child is to live will generally last until the child is 18. An order that regulates when the child is to have contact with a person will usually end when the child is 16. However, in limited circumstances, it can last until the child is 18.

This guide is intended to be general information and not to be relied upon as legal advice. This is a complex area, and each case is different.

We would suggest you contact us to obtain complete and proper legal advice.