



Scott Duff & Co Solicitors

When parents separate, emotions often run high. Whatever your feelings, it is important to put your children's needs first. Every family and their circumstances are different and we will help you to work out clear and consistent arrangements. Children's needs and situations change so you may need to revise the arrangements made for them from time to time. Research shows that it is normally in children's best interests if:

- They are raised by both parents, as long as it is safe.
- Each parent supports a positive relationship with the other parent.
- Changes are planned and the children are clear about the arrangements for spending time with each parent.
- Children are not exposed to conflict.
- Parents support children to keep in touch with wider family members and close family friends.
- New partners support the care arrangements and have a good relationship with the children.

As well as agreeing the day to day care arrangements you may need to consider issues such as:

- Holidays
- Christmas, birthdays and other special occasions
- School or Nursery
- Religion or culture
- Health
- Moving away from the area
- Introducing your children to a new partner.

Children

- Child maintenance – if you wish to seek advice without making a formal application to the Child Maintenance Service you can call the Child Maintenance Options Helpline 0800 083 5130 or go to their website www.cmoptions.org

Rights and Duties

Normally both parents will have parental responsibility which is defined in law as *“All the rights, duties, powers, responsibilities and authority, which by law a parent has in relation to the child and the administration of his or her property”*.

Where more than one person has parental responsibility they have a duty to consult with each other over any major issues affecting their children.

Step Parents can acquire parental responsibility by formal agreement and other adults can acquire parental responsibility under court orders such as a child arrangements order, a special guardianship order or an adoption order. Occasionally a local authority or a guardian appointed by the court may also have parental responsibility

If you do not have parental responsibility for your child or a child in your care we will advise as to the appropriate action to be taken.

Mediation

Mediation may be suitable for your case- our separate fact sheet about mediation gives further information. It is usually necessary to attend a meeting with a mediator to find out more about mediation before you are able to make an application to court concerning a child or children, and it may be that agreement can be reached through mediation.

Court Applications

If you find that there is no scope for agreement or in certain situations when mediation is not suitable (for example emergency action is needed) it is possible to make an application to the court for an order. Examples of the orders that can be made are

set out in the section below headed “ Terms used in the Family Court System”.

We will advise as to the application you need to make, the procedure and the probable length of the case.

The Welfare Checklist

The court is required to consider the following factors before making decisions relating to a child.

- (a) The ascertainable wishes and feelings of the children concerned (considered in the light of their age and understanding).
- (b) Their physical emotional and educational needs.
- (c) The likely effect on them of any change in their circumstances.
- (d) Any harm which they have suffered or are at risk of suffering.
- (e) Their age, sex, background and any characteristics of theirs which the court considers relevant.
- (f) How capable are each of their parents and any other person in relation to which the court considers the question to be relevant is of meeting their needs.
- (g) The range of powers available to the court under this Act and the proceedings in question.

The court will always consider the best interests of the children first and foremost.

Appointing a guardian to look after your children

If you have parental responsibility for your child or children you may appoint a guardian in your Will but this appointment will only take effect if you are the only person with parental responsibility at the date of your death. We will advise on the steps you need to take based on your own circumstances.

Terms used in the family Court system

Child Arrangements Order.

This type of order replaced the old terminology of “residence” and “contact”. A child arrangements order sets out the time a child will spend with one or both parents or, where there is a disagreement as to where a child shall live, make provision in this respect.

A child arrangements order can include specific guidance on other forms of communication

between the child and his/her parent such as letters, emails and telephone calls.

Occasionally other adults such as grandparents can also apply for child arrangement orders.

Special Guardianship Order

If a child does not live with either parent the person with whom he/she lives may apply for a child arrangements order or a special guardianship order. We will advise on the appropriate order.

Specific Issue Order

When parents disagree about certain parenting issues this type of order is used. For example: where a child should go to school. When appropriate the court may give certain responsibilities to one parent only.

Prohibited Steps Order

This restricts parents from taking certain actions in relation to their children. For example: restricting removal of children from the UK or preventing a specified person from caring for them.

Parental Responsibility Order

An order giving a person parental responsibility for a child. Parental responsibility is described in more detail above.

CAFCASS

“Children and Family Court Advisory and Support Service” – when the Court requires additional information this independent government organisation appoints a reporting officer to prepare a report on the children, their needs, wishes and feelings and the ability of the various adults to meet their needs. This report will generally have a significant impact on the outcome of the case.

Before the first court appointment an officer from CAFCASS will carry out police and children’s services checks and speak to both parties on the telephone in order to prepare for the court a summary of the issues in the case.

First Hearing Dispute Resolution Appointment (FHDRA)

The first hearing is normally an FHDRA when a CAFCASS reporting officer will be present to help parents reach an agreement before making orders as to how the case should proceed.

Separated Parents Information Programme

At the first hearing the court will often provide for the parties to attend this half day course which is to

help people approach parenting after separation and avoid exposing children to conflict. The parties do not attend the same course. It is not compulsory but attendance is encouraged.

Parenting Plan

A framework for the day to day care of the children which the parents are encouraged to complete.

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