



When parents first come to see us concerning divorce, dissolution or

financial issues following the breakdown of a relationship, they are often surprised when we tell them that there is no need to do anything in relation to a child, if separated parents can agree on arrangements such as where and with whom a child will live, or how much time they spend with the other parent or other person with whom they do not live. In fact, the court expect separated parents to try and resolve disputes about child arrangements outside of the court system and to be flexible about changes to any agreements that have already been made.

Unfortunately, if arrangements cannot be agreed, it will be necessary to apply to the court for orders deciding any issues. Private children law is concerned with these private disputes between adults about children and the steps that a parent can take when they exercise their rights and duties from being a parent (i.e. their parental responsibility).

# A Guide to Child Arrangements

## What are you applying for?

Since 2014, a separated parent will be applying for a child arrangements order which replaced what some might know as 'Contact Orders' and 'Residence Orders'. A child arrangements order means *an order regulating arrangements relating to whom the child is to live, spend time, or otherwise have contact* and when a child is to do these things.

One of the advantages of being named in a child arrangements order as a person with whom the child is to live, is that you can take the child abroad for up to one month without the consent of the other parent or the permission of the court. A parent not named in the child arrangements order as a person with whom the child is to live does not have this right, although there are other steps that they can take.

## Who can apply?

In short, anyone can apply for a child arrangements order, but there are those who are entitled to apply and those who must seek permission of the court. For example, parents of the child can apply without permission, as can any parent with whom the

child has lived for a period of three years out of the last five years, providing the application is made within 3 months of the end of the period of residence. A grandparent who is being refused contact with grandchildren however, would need to obtain permission from the court to apply.

## How to apply?

Anyone applying to the court for a child arrangements order must first attend a Mediation Information and Assessment Meeting (MIAM) with a family mediator, unless the requirement does not apply, for example, the requirement does not apply in cases of domestic violence or where one party refuses to engage in the process. The purpose of the meeting is to provide information on how to reach agreements without going to court and assess whether mediation is an appropriate way to try and sort out any disagreements.

If the mediator decides that mediation is not appropriate, they will complete the relevant section of the application form (C100) used to make an application to court for a child arrangements order. You can then make an application

to court by completing the remaining parts of the application and sending it to court with the appropriate court fee, currently £215.

When issuing an application for an order regulating arrangements relating to children (i.e. child arrangements orders), the court will check whether the parties have attended a MIAM to assess whether mediation is a more appropriate way to try and sort out any disagreements. If a MIAM exemption has been claimed, the court will check that it has been validly claimed. If the court is not satisfied, it can direct that the parties attend a MIAM before the application proceeds.

Once satisfied, the court will officially start the case. It will "issue" the application and give it a case number. The applicant will know whether they have started their case successfully because they will receive a copy of a notice of proceedings. This will explain when and where the first meeting (hearing) with the judge will take place. The court are required to deal with cases quickly and the hearing date is usually 4 to 6 weeks ahead.

The purpose of the first hearing, also known as the First Hearing Dispute Resolution Appointment (FHDRA), is to identify the issues. All parties must attend the FHDRA, which usually lasts between 30 minutes and 1 hour. The parties will meet a judge and a court welfare officer (Children and Family Court Advisory and Support Service

(CAFCASS) officer). CAFCASS is an organisation responsible for safeguarding the interests of children involved in court proceedings. CAFCASS work with children and families and the CAFCASS officer advises the court on what they consider to be in the child's best interests. They have a very informative website at [www.cafcass.gov.uk](http://www.cafcass.gov.uk).

The judge and the CAFCASS officer will want to be clear about what is agreed and where parties disagree. They will try and help find a solution to some or all of the issues in dispute. If an agreement can be reached, the court can make an order recording the agreement.

If an agreement cannot be reached, the court will identify the issues and make an order for directions. This is a list of instructions telling parties what they must do. The court can order parties to prepare statements, for CAFCASS to prepare a report or, it may order a 'fact finding' hearing if there are issues of domestic violence, sexual abuse or substance abuse for example.

At the end of the FHDRA, the court usually schedules a Dispute Resolution Appointment (DRA) or Final Hearing.

A DRA is usually scheduled if CAFCASS have been directed to produce a report. At the hearing, the judge will explore with the parties whether they can agree arrangements for the children. If no final agreement is reached at the DRA, the judge

will order that the case is listed for a Final Hearing. The Judge will then consider all of the evidence and make a decision about the issues in dispute.

Our family law team has a wide range of experience in family law and relationship issues and, whatever you are going through, we will guide you through every step of your case and ensure you have the support you need. We are committed to the constructive and efficient resolution of family disputes. As members of Resolution, we subscribe to a Code of Practice which is geared towards encouraging a constructive and non-confrontational approach in all family matters. For more information please contact us and we will be pleased to advise you in a free 30-minute initial appointment.

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