

# Resolving Children Issues

When a couple with children separate and/or divorce they must consider the arrangements for the children

Research has shown that children normally cope with divorce better if the parents are able to co-operate and if the children maintain a good ongoing relationship with both parents. Above all, children need reassurance that both parents love and care for them and will always be there for them.

We do everything possible to help clients reach agreement and we encourage parents to use Mediation or Collaborative Law in appropriate cases.

The arrangements made will of course depend on the circumstances of the particular family and the needs of the children. There are no fixed rules. However it is important that the parents are sufficiently flexible to be able to accommodate the changing needs of the children as they get older.

Sometimes it is not possible to reach agreement and it is necessary to seek the assistance of the Court. The relevant statute is the Children Act 1989 and it is possible to seek the following orders:

- Residence Order – where the children will live.
- Contact Order – the arrangements for contact with the non-resident parent.
- Specific Issue Order – to determine a particular question such as schooling or medical treatment.
- Prohibited Steps Order – to prohibit a particular activity, for example removal of the child abroad, or a change of surname.

The Children Act provides that in all such cases the welfare of the child is the paramount consideration. In determining what is in the best interests of the child the Court takes into account the following factors, known as the “welfare checklist”:

- The wishes and feelings of the child (considered in the light of his/her age and understanding).
- His/her physical, emotional and educational needs.
- The likely effect of any change in his/her circumstances.
- His/her age, sex, background and any characteristics which the Court considers relevant.
- Any harm which he/she has suffered or is at risk of suffering.
- How capable each parent is of meeting the needs of the child.

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In the more difficult cases an independent Child and Family Reporter will act as the “eyes and ears” of the Court and will prepare a report, after interviewing the parties, the children and other relevant people.

The Courts do not discriminate between mothers and fathers on the basis of gender. However an important consideration will be who has been the primary carer. This is often the mother, although increasing numbers of fathers are assuming this role. The Courts will be reluctant to disrupt this primary care, particularly in the case of young children. In recent years it has become increasingly common for parents to have shared care arrangements.

We will do everything possible to assist you to resolve children issues in a calm, constructive and child-focused way.

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