

Child Arrangements Orders

This factsheet explains the available orders when there are disputes between separating parents around their rights and responsibilities towards their children.

What are Child Arrangements Orders?

These are orders related to exercising Parental Responsibility when there are disputes between separating parents. These disputes commonly arise around the exercise of rights and responsibilities towards their children.

Child Arrangement Orders commonly deal with issues such as:

- whom the child is to live, spend time or otherwise have contact with.
- when the child is to live with, spend time or otherwise have contact with any person (i.e. your partner)

There are also the Prohibited Steps Orders and Specific Issue Orders.

The Prohibited Steps Orders prevent a parent from undertaking certain steps, for example preventing a parent from removing a child from the jurisdiction, from a local area or specific place of education.

The Specific Issues Order seek to determine a particular issue of a dispute regarding the child, for example if the child should change their name, attend a specific place of education or relocate permanently.

What is Parental Responsibility?

Parental Responsibility is having '*...all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property...'*

The PR will not entitle one parent to exhibit undue control mechanisms over child arrangements. This is inappropriate and can be considered to negatively harm the children's welfare. It should be known that the resident parent has the right to independent action in relation to day to day matters affecting the children. These day to day actions can be discharged independently, without agreement or notification. This does not apply to major issues, *i.e. planned medical treatment (beyond routine appointments), living arrangements during holidays and events, selection of schools, application for authorised absence from school, immunisations, etc.*

It is not the case that either parent can simply dictate these matters without reference to the other.

Are you automatically eligible to make this application?

There are individuals automatically entitled to apply for child arrangement orders.

They are as follows:

- Parents or Guardians/Special Guardians.
- Stepparents (where they hold Parental Responsibility, or the child is treated as a child of the family);
- Spouse/Civil Partner where it pertains to a child of the family.
- If you are a person with the consent of all those who hold Parental Responsibility.
- If you are a relative with whom the child has lived for one year.
- If you are the person with whom the child has lived for a period of at least 3 years – this must not have begun more than 5 years before or ended 3 months prior to the application.
- If you have a Child Arrangement Order naming you as an individual with whom the child shall live.
- If you are a person with the consent of the local authority with care.
- If you are a local authority foster parent (dependant on further conditions)

What if you are not automatically eligible?

This does not mean you cannot apply for a Child Arrangement Order, but you would need to apply for permission to be entitled to apply. This type of issue commonly arises for Grandparents who do not fall into the categories above.

What is a Mediation Information and Assessment Meeting (MIAM)?

There is a legal requirement to attend a MIAM before proceeding with a formal application. More information about these meetings here: [What is a MIAM?](#)

What are the benefits of a child arrangement order?

The main focus of these proceedings and paramount consideration for the Court is the child's welfare. Well-ordered child arrangements can provide stability for not only the parties, but also the children. Any unspecified and unbalanced arrangements can lead to a negative impact on the children. This approach assists in preventing disputes between the parties and should provide reasoning to prevent any one party from applying disproportionate and inappropriate controls over the arrangements.

Types of order?

The Court can provide for the following types of stable arrangements:

- Direct Contact. These arrangements are where the parent will directly have contact with the child, and this can be for a set period or overnight.
- Indirect Contact (i.e. Skype, Facetime, Whatsapp, etc). These types of orders commonly arise where there is a potential risk identified in respect of the child's wellbeing.
- Supervised Contact. If the Court considers there is a risk to the child's welfare, they can order for contact to take place in a supervised contact center. It is possible for the parties to enter through separate entrances/exits and not have to engage with each other during this process.

The Court will normally consider it beneficial for the child to have both parents involved in their lives, unless there are concerns about the child's welfare.

It is also possible to have equality in status by seeking for shared living arrangements. This promotes a consistent continuation of family life and reassures the stability needed by children whilst maintaining the involvement of both parents. If

there are intractable disputes, such a shared living arrangement can be ordered by the court to impress upon you the importance of parental equality.

If you have a Child Arrangement Order confirming you to be a person with whom the children live, then you have the right to take the child abroad for up to one month without the other party's consent. If you are not named as a person with whom the child shall live, you do not have the same rights and would have to reach an agreement or consider a Specific Issues Order.

How does the court decide what happens?

The paramount concern for the Court is the child's welfare.

The Children Act 1989 provides a list of considerations, which help guide the judge in making a decision:

- the wishes and feelings of the child concerned.
- the child's physical, emotional, and educational needs.
- the likely effect on the child if circumstances changed.
- the child's age, sex, background, and any other relevant characteristics.
- any harm the child has suffered or may be at risk of suffering.
- the capability of the child's parents in meeting the child's needs, and
- the powers available to the court.

The court must also be satisfied that making an order is better for the child than not making an order at all.

When do child arrangement orders come to an end?

If the parents cohabit for a continuous six-month period, the Child Arrangement Order will automatically end.

Child Arrangement Orders ordering who the child is to live with and when, normally continue until the child is aged 18 years. If the order states with whom and when a child is to spend time, it normally remains until the age of 16 years (and exceptionally until 18 years of age).

This resource has been brought to you by Azhar Hussain
(Solicitor-Advocate & Experienced Head of Family Dept) and you
can find further information
at <http://www.azharhussain.co.uk/legal-blog/>