

ARRANGEMENTS FOR CHILDREN

When parents separate they have to make important decisions about their children's upbringing. Here we have set out some legal guidance on what orders the court can make if parents are unable to come to an agreement.



STEP #1

FIRST STEP

Before going to court, parents will first need to try mediation (unless there is a compelling reason why mediation cannot take place).

During mediation, parents will try to come to an agreement about various issues including; where the child(ren) should live, what level of contact they should have with the other parent, what school they should go to etc.

If an agreement cannot be reached, you may wish to make an application to court.



SEEK LEGAL ADVICE

If you cannot reach an agreement during mediation, you may wish to seek legal advice to consider whether you wish to make an application to court.

STEP #2

STEP #3

TYPE OF ORDER

When making an application to the court, you will need to consider what you are asking the court to do. The types of orders a court may make include;

1. Children Arrangements order to specify who the child shall live with and how much time they shall spend with the other parent.
2. Specific Issues orders determine an issue in relation to the child, such as change of a child's name, what school a child shall attend, what medical treatment a child shall receive and whether a child shall be allowed to leave the country.
3. Prohibited Steps orders prohibits one/both parents from taking certain actions in relation to the child such as removing the child from one parent's care and/or the country and changing the child's name, school or religion.

COURT PROCEEDINGS

Once an application is issued, the court has to consider the child's welfare and only make an order if it is in the child's best interest. The child's welfare is the courts paramount consideration. The court will have regard to the 'welfare checklist' as briefly outlined below:

1. Child's wishes and feelings
2. Child's physical, emotional and educational needs
3. The likely effect on the child of any change in circumstances
4. The child's age, sex, background and any characteristics the court thinks relevant
5. Any harm the child has suffered or is at risk of suffering
6. How capable both parents are of meeting the child's needs
7. The range of powers available to the court.

There is a presumption that it is in a child's best interest to have both parents involved in the child's life, unless there is good reason for no involvement.

STEP #4



FINAL ORDER

Once an Order is made, it is important to abide by the terms of the order. If one of the parties does not abide by the order, the other party can issue enforcement proceedings which can result in a fine, community service and even a change of residence for the children.

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