

# FAQS

-CHILD ARRANGEMENT-

## Q: WHAT IS A CHILD ARRANGEMENTS ORDER

A: A Child Arrangements Order is an order that regulates the arrangements for a child. The Court can make orders such as with whom a child is to live and how contact with the child should be maintained and in what way.

## Q: WHAT IS CONTACT?

A: Contact is the time that a child spends with an adult. This includes 1. Direct contact between the child and the person named in the order; 2. Overnight stays; 3. Supervised contact, and 4. Indirect contact through letters or cards.

## Q: WHAT CAN THE COURT ORDER IN A CHILD ARRANGEMENT CASE?

A: The Court may order: No contact with the child, if it is in the child's best interests (this is rare); Who the child will live with; The child to live with one parent only; or Contact time to be shared between both parents (does not mean equal split).

## Q: WHAT CAN YOU APPLY TO THE COURT WHEN IT COMES TO CHILD DISPUTES?

A: You can apply to the court for: Child Arrangements Order; Prohibited Steps Order; Specific Issue Order; and/or Consent Order..

## Q: WHO IS ENTITLED TO APPLY FOR A CHILD ARRANGEMENT ORDER?

A: The following people can apply for a Child Arrangement Order without permission from the Court: Parents, including unmarried fathers; Guardians; Special guardians; Step-parents with parental responsibility; Any person in whose favour a residence order is in force in respect of the child; Any party to a marriage in relation to whom the child is a child of the family; Any person with whom the child has lived with for a period of at least 3 years (does not need to be continuous but must not have begun more than five years before, or ended more than three months before the making of the application). Any person who is not entitled (e.g. grandparents) may apply for the Court's permission to make an application.

## Q: WHAT IS THE REQUIREMENT BEFORE APPLYING TO THE COURT FOR CHILD ARRANGEMENT ORDER?

A: The Court encourages both parties to reach an agreement outside of Court and only apply to the Court where it is strictly necessary to do so. Before applying for the court order, you are legally required to attend a Mediation Information and Assessment Meeting, unless you are exempt or applying for a consent order.

## Q: WHAT IS MEDIATION INFORMATION AND ASSESSMENT MEETING (MIAM)?

A: A MIAM is an initial meeting where you will be given information about mediation and alternative ways of reaching an agreement without going to Court. A mediator will consider with you whether other methods are more suitable for your case. Note: A MIAM is a one-off meeting and is not the same as mediation.

## Q: WHAT HAPPENS AT A MEDIATION INFORMATION AND ASSESSMENT MEETING (MIAM)?

A: At the MIAM, a mediator will explain: How mediation works; The benefits of mediation; Whether mediation is right for you; The likely costs; Whether you qualify for help with the costs of mediation and legal costs; Other methods to help you reach an agreement. After you attend the MIAM, the mediator should provide you with a signed document to confirm you attended a MIAM, or if you do not need to attend the MIAM, certify that you are exempted. If you don't have such a document, you should ask the mediator for one. You must bring the signed document from the mediator to the first court hearing.

## Q: WHY DOES THE COURT ENCOURAGE BOTH PARTIES TO REACH AN AGREEMENT OUTSIDE OF COURT IN CHILDREN'S PROCEEDINGS?

A: Even though the outcome is legally binding, and the decision is made in the best interests of the child, the court process can take a long time and can be very expensive. In addition, involving the Court may be more stressful for you and your child, it may increase conflict between you and the other party and you may not be in control of the outcome.

## Q: WHAT ARE THE ALTERNATIVE WAYS TO REACH AN AGREEMENT?

A: If there are no safety concerns, you should see if there is a more suitable way to agree on child arrangements with the other party other than going to Court. By reaching an agreement out of court, you may be able to make the situation less stressful for the child, reduce conflict with the other party, help the child maintain existing familial relationships and save costs and time. You can seek help from: Professional mediation; Lawyer negotiation; or Collaborative lawyer (negotiate face-to-face).

## Q: WHAT IS THE PROCEDURE FOR CHILDREN PROCEEDINGS?

A: If you still can't reach an agreement with the other party using an alternative way, then you can apply to the Court for a court order. The Applicant submits the application online or by post. The Court will set a time and place for you and the other party to attend a First Court Appointment. It is called the First Hearing Dispute Resolution Appointment (FHDRA). Information about this appointment and the application will be served to the other party and any other adults involved as they need to complete a form and send it back to the Court. The Court will also send a copy of the application to Cafcass (Children and Family Court Advisory and Support Service) and they may attend the FHDRA. Usually, the Court investigates the issues and enquires into the possibility of a settlement in a FHDRA. If an agreement still cannot be reached in the FHDRA, the Court will identify the outstanding issues and will give directions on how the case should proceed. The Court might order a Cafcass officer to prepare a report to help the judge at the final hearing, or it might order that the child be legally represented in the proceedings. The Court may also order the parties involved to prepare written statements of the evidence that they want the Court to hear. Sometimes the Court will also adjourn the case for mediation to take place, if the Court thinks the parties can reach an agreement through mediation. If the issues still cannot be sorted out, the Court will ultimately hold a final hearing. At that stage, a judge will hear evidence from, the Cafcass officer, any adult parties involved in the proceedings and any other necessary experts, and then make a decision.

## Q: WHAT ARE THE FACTORS THE COURT WILL TAKE INTO CONSIDERATION IN CHILDREN PROCEEDINGS?

A: The first concern of the court is the child's welfare. The Children Act 1989 directs the Court to pay particular attention to seven factors when making a decision, this includes: The wishes and feelings of the child concerned; The child's physical, emotional and educational needs; The likely effect on the child if circumstances change as a result of the court's decision; The child's age, sex, background and any other characteristics that will be relevant to the court's decision; Any harm the child has suffered or may be at risk of suffering; The capability of the child's parents (or other relevant people) in meeting the child's needs, and The powers available to the Court. Additionally, the Court must presume when considering an application for a Child Arrangement Order, unless the contrary is shown, that involvement of each parent (either direct or indirect) in the life of the child concerned will further the child's welfare. That presumption applies if that parent can be involved in the child's life in a way that does not put the child at risk of suffering harm. The Court must also be satisfied that making an order is better for the child than not making an order at all.

## Q: HOW LONG DOES A CHILD ARRANGEMENT ORDER LAST FOR?

A: A Child Arrangement Order that regulates with whom the child is to live and when, will last until the child is 18 (unless the court orders an earlier date). A Child Arrangement Order that regulates when the child is to have contact with a person will usually end when the child is 16 but in limited circumstances can last until the child is 18.

## Q: CAN YOU CHANGE OR ENFORCE A CHILD ARRANGEMENT ORDER?

A: A court order is not flexible. You will need to apply to the Court again if your situation changes. You or the other party involved can apply to the Court to enforce the order if any of you breaches it.

## Q: HOW MUCH DO YOU CHARGE FOR CHILD ARRANGEMENT MATTERS?

A: It depends on whether you and your spouse are able to reach an agreement. We charge at an hourly rate of £300+VAT. How much you would end up paying in total depends on how much time we will need to spend on your case. Generally, if the parties can agree on the terms regarding residence and contact of the child, we would be able to draft a Parenting Plan for you. Our fees will depend on the complexity of the terms and will start at £1500+VAT. If a child arrangement consent order is required, i.e. you and the other party will agree that the terms are valid and enforceable, but would like the Court to endorse your agreement. Depending on the complexity and Court's direction, our fees will start from £2000+VAT. If no agreement can be reached and a contested proceeding is required, our fees will start from £10,000-15,000, depending on the Court's directions for the hearing. In addition, there are court fees and barrister fees, which will in the region of £6,000-£8,000, depending on the level of experience of the barrister.