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Child Arrangement Orders

(formerly Residence and Contact Orders for Parents, Grandparents and Others after separation)

Child Arrangement Orders were introduced by the Children & Families Act 2014 on 22 April 2014. These Orders replace the concept of Residence and Contact Orders.

Child Arrangement Orders are Court Orders that regulate the living and contact arrangements for a child, following parental separation. Some might say that this in fact is Contact and Residence (previously Custody and Access), however there have been some changes.

Under the new Child Arrangements Programme, anyone who wishes to make an application for a Child Arrangement Order must attend a Mediation Information and Assessment Meeting (known as a MIAM) before making the application. There are some exceptions but by and large you have to attend one of these sessions, where it will be explained to you what alternative dispute arrangements might be more suitable in your case, whether that is Mediation, Collaborative Law or Arbitration.

In terms of who can apply for a Child Arrangement Order the position has not really changed. For more specific details, please contact us, but broadly if you are a parent (whether or not you have got Parental Responsibility), or you are a step-parent , or you have lived with a child for at least a three year period, then you have automatic rights to apply.

In terms of those who need to ask for permission to make an application, then normally you would expect grandparents for example to fall into this category.

So what are the things that you have to look at?

The Children Act 1989, which has now been in force for a long time, states that "When a Court determines any question with respect to the upbringing of a child … the child's welfare shall be the Court's paramount consideration". The Children Act does not determine welfare, but there is a Welfare Checklist so the Court shall have regard in particular to:

1. The ascertainable wishes and feelings of the child concerned, considered in the light of his or her age and understanding.

2. The child's emotional, physical and educational needs.

3. The likely effect on the child of any change in circumstances.

4. The age, sex, background, and any characteristics of the child which the Court considers relevant.

5. Any harm which the child has suffered or is at risk of suffering.

6. How capable each of his parents and any other person in relation to whom the Court considers the question to be relevant, is of meeting his needs.

7. The range of powers available to the Court under this Act in the proceedings in question.

The list is not comprehensive but is more of a checklist.

None of this has really changed from the position as was previously. It is more of a change in terminology.

However, the Court can now make an Order that "facilitates and improves parental involvement in the life of a child. This includes making what is known as an Activity Direction when it is considering making a Child Arrangement Order. This means the Court can order an individual to undertake activities to establish, maintain or improve the involvement in the life of the child concerned, of a party to the proceedings. This might be counselling or guidance sessions, parenting workshops, programmes designed to address someone's violent behaviour or information sessions about mediation.

In addition, the Court can, at any stage of the proceedings, refer the matter to Mediation if it feels it is appropriate. Indeed the drive behind the recent changes is all about trying to get parties to look at alternative methods of dispute resolution, rather than turning up at Court.

This factsheet is designed to provide an overview of the law and an explanation of what has actually changed relating to the Child Arrangement Orders. If you require further, more detailed advice please contact us.