

Resolving disputes involving children through the Court

What can the Court decide and what is the application process?

When it comes to matters involving children in situations where parents have separated or divorced, they will be highly emotional times. In the absence of being able to communicate to one another to come to an agreement regarding arrangements for children, it can be a minefield knowing where to start and what options are available to assist you.

This factsheet sets out the type of disputes that the Court can decide and what is involved in a typical Court application process.

Court Orders - what can the Court decide?

There are three main Court Orders that parents can consider.

- 1. Child Arrangements Orders** – Where and with whom should the child live or the level of contact a child should have with their non resident parent and on what basis.
- 2. Prohibited Steps Orders** – If one parent wishes to prevent the other from taking a specific action in respect of the child. For example, if one parent wants to leave the country with the child.
- 3. Specific Issue Order** – If the parents disagree on a particular issue such as which school the child should attend.

How does the Court Order application process work?

- 1. Mediation** – Before any Court Order can be made, parents must attempt to resolve their issues together. This must be done formally through a Mediation Information Assessment Meeting (MIAM) where a qualified Mediator determines if a Court Order is required. If it is agreed that a Court Order is required, then the Mediator will sign an exemption certificate and an application to Court can be made.

- 2. Court Order application forms** – In every situation the application is submitted to Court using Form C100, and if applicable, with Form C1A depending on whether there are concerns regarding the safety of the child or parent. The Court fee to submit the application is £215.
- 3. First Hearing Dispute Resolution Appointment (FHDRA)** – Once the application has been made, an FHDRA is confirmed. This hearing provides an opportunity for the parties to try and resolve the issues between them with the assistance and support of Cafcass (Children and Family Court Advisory Support Service). Cafcass will have contacted the parties prior to the FHDRA to obtain initial information on the background to the case and the issues in dispute in order to prepare a safeguarding letter to the Court on their initial recommendations. Depending on the child's age, Cafcass may decide to speak with them also.
- 4. First Hearing outcome** – If matters can not be resolved during the FHDRA, a timetable is set for the rest of proceedings and how the rest of the case should be run. It is very common at this stage for witness evidence to be ordered or a more detailed report (s.7 report) to be prepared by Cafcass or social services if they have been involved before.
- 5. Dispute Resolution Appointment Hearing (DRA)** – Once the s.7 report and additional witness evidence has been filed, the DRA Hearing provides a further opportunity to resolve matters. The Court will attempt to streamline the outstanding issues in dispute and the case will then be listed for a Final Hearing.
- 6. Final Hearing** – The Final Hearing will settle the case and provide the parties with a legally binding court order. The parties may be required to give additional evidence, but ultimately at this stage, the Court will decide the outcome of the case.

Contact us

Rix & Kay has a wealth of experience of advising on all aspects of family disputes and are happy to discuss any issues you may have on an informal basis.



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