

Children and Separation

Overview

This factsheet highlights some issues parents should consider when separating.



How to tell children of the changing circumstances

When parents separate, the first concern must be arrangements for their children. Issues that must be tackled include how children are told about their parents' separation and how they are best supported through it. There is then the question of how a child's time will be divided between parents once they have established separate households.

Arrangements for their children can be one of the most difficult and emotive issues for separating parents. Consequentially, the same arrangements are frequently the source of more serious and profound disagreements. Childcare professionals (and commonsense) tell us that parental separation is a confusing and distressing time for every child. It is crucial, when addressing arrangements for the future, to do everything possible to limit the stress and anxiety generated. This benefits the adults. More importantly, it benefits the children.

Help and Support for separated parents

There are a great many resources providing support and practical guidance to parents experiencing separation. These can help whether accessed instead of, or in parallel with, legal advice or court proceedings. There are also some resources designed in particular to help the child affected, which use age-appropriate language and terminology.

Parenting Plans

CAFCASS produce a comprehensive parenting plan booklet which provides guidance on agreeing some or all arrangements affecting the children of separated parents. A version of the Parenting Plan booklet is available online, at http://www.cafcass.gov.uk/PDF/FINAL_web_version_251108.pdf.

Parenting after Parting Sessions

Various organisations offer Parenting after Parting sessions which offer practical solutions on co-parenting following a separation. Many parents who attend these sessions report being struck by the information provided about the huge emotional damage done to children through parents engaged in bitter and long-running disputes about them.

We can offer details of groups, charities and organisations offering Parenting after Parting sessions.

Helpful Books

For Children Aged 3 to 8 years old

- **Two Homes**, Claire Masurel
A story about Alex who now has two homes: one at mummy's and one at daddy's.
Recommended for children of a very young age.
(ISBN: 0744589258)
- **Dinosaur Divorce: a guide for changing families**, Lauren and Marc Brown
A cartoon strip story explaining about separation and divorce for young children.
(ISBN: 0316109967)
- **Children don't divorce**, Rosemary Stones
A book that looks at divorce from the child's angle and offers an opportunity to explore and express the child's own feelings of their situation.
(ISBN: 0851228119)

For Children Aged 8 and up

- **The Suitcase Kid**, Jacqueline Wilson
Written by the popular children's author, the author tells the story of Andy who is upset about her parents' divorce and does not know whom she should live with.
(ISBN: 0440863112)
- **The Divorce Helpbook for Kids**, Cynthia MacGregor
This book discusses many of the topics that trouble children when their parents divorce.
(ISBN: 1886230390)

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Useful Websites

These are particularly suited for older children.

- It's Not Your Fault**
www.itsnotyourfault.org
 A very helpful website emphasising to the children that the separation is not a problem caused by them, but is an adult issue. It has a diary tool that encourages children to keep account of their feelings and emotions to help them compare in coming months, for example, whether they are happier that their parents have stopped arguing.
- When Parents Part**
www.whenparentspart.org/youngpeople
 On this website, there is a DVD entitled "When parents part" accompanied by a booklet. It is a film made by young people and their separating parents. The emphasis is based on letting young people know they are not alone in the situation.
- Childline**
www.childline.org.uk
 ChildLine offers a free confidential helpline open 24 hours.
 Freepost: NATN1111, London E1 6BR
 Freephone: 0800 1111
- Other Resources**
CAFCASS Leaflets
 Prepared from the parental perspective, the following are particularly useful and can all be obtained here:
http://www.cafcass.gov.uk/publications/leaflets_for_adults.aspx:
 - Putting your Children First: Divorce and Separation*
 - Separated Parents Information Programmes (Contact Activity)*
 - Time for Children*
 - Ask the Experts: 10 tips for parents about children and separation*
 - Separated Parents Information Programme*



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Only a parent with parental responsibility can actually appoint a guardian.

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Changing circumstances - who to inform

Informing your children about the changes that will affect them will be your first priority on separation. However, you should also bear in mind that there are others who will need to be told about some of the practical changes.

You should inform your children's school that you are separating. This will help by ensuring the school are aware of the situation at home, and can deal with any issues which arise during the school day. It will also help them coordinate over practical matters: for example, who will be doing the school run, arrangements on parent / teacher evenings and sport days, etc. All schools nowadays are very used to helping separated parents, and many will have resources available in-house. It is therefore a good idea to make contact as soon as possible.

Depending on your living arrangements you may need to notify the Child Benefit Agency of any change of address or change of payee.

Dispute Resolution

If you are having difficulties discussing issues directly with one another or you are not able to agree arrangements, then you could consider attending at mediation or inviting your spouse or partner to a collaborative meeting. Alternatively you may find that matters can be resolved amicably if we correspond directly with your spouse or partner on your behalf.

Mediation - This method concentrates on sorting out practical problems during or after separation. Providing both of you agree to mediate, you will meet together with a mediator for a number of sessions. In these meetings, there will be discussions regarding arrangements for your children, or any other issues such as finances or property arrangements. Some mediation services will invite the child to be present and their wishes and thoughts will be highlighted at the meeting.

What mediators do not do is offer legal advice, or any form of counselling or therapy. Most of all they do not make the decisions for you. Instead, they will present you with the options available to you so that you and your former partner can explore them.

More information can be found on www.nfm.org.uk.

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Maintenance and Financial Considerations

Financial arrangements affecting children should always be discussed. Separating parents should consider how the change in circumstances will affect how they each contribute financially to ensure their children's needs are met.

Separating parents might consider, and discuss answers to, the following questions:

- What regular payments will be made for the children's needs? When will payments be made and how (many parents prefer a direct debit arrangement)? What will the amount be?
- Who will pay for clothes and shoes for the children? Who will pay for uniforms, sports equipment and other kit etc?
- Who will pay for holidays? Who will pay for school trips?
- Who will give the children pocket money?
- Who will pay for bigger outgoings: bicycles, computers, musical instruments?
- How will you support the children through college, university or other training courses?
- How and when will financial arrangements be reviewed?

If you are not able to agree on the level of maintenance, you can apply for a formal assessment by the Child Maintenance Services. For further information on the Child Maintenance Services and child maintenance please see our Child Maintenance factsheet.

Your separation might also mean that one of you will become entitled to tax credits. If tax credits are already being paid, separation may require them to be reassessed. For information on eligibility to claim tax credits, and the amount that might be payable, visit the HMRC website, and the dedicated tax credit section:

<http://www.hmrc.gov.uk/taxcredits/>

Separating parents should also consider reviewing their wills, to review decisions about what happens in the event of their death.

Dispute Resolution

Not all parents are able to agree all aspects of their child's upbringing. Some need help, either generally or in relation to a particular issue.

Courts now actively require parents to consider alternative methods of resolving disputes about their children before applying for orders.

We sometimes find that decisions made by a Judge are not really to the liking of either parent. This is one of the risks of litigation. Parents who can agree arrangements outside of the court process retain control. They can tailor outcomes more subtly to their family's needs. And reaching an agreement can also send an important message to children that both parents support the new arrangements.



There are a number of alternatives to court proceedings to settle disputes about children. The most popular are as follows:

- **Mediation**

This involves both parents meeting a Mediator who will listen to their respective viewpoints and help them identify and work towards an agreed and practical solution. Where appropriate, mediation can also involve extended family members (but this should be discussed with the mediator to establish whether wider attendance will be helpful).

There are various mediation models. Some parents prefer sole mediation, where a single mediator meets with both of them. Others prefer joint mediation, where two mediators work with the family (the mediators are often of different genders, so there is no sense of the men ganging up against the women, or vice versa). In high conflict situations, shuttle mediation may be used: this keeps parents physically separate, in different rooms, with the mediator shuttling between them. Mediators may be – but do not need to be – legally qualified and many family lawyers are trained mediators. Whether a lawyer mediator is necessary depends on the matters in dispute.

What mediators do not do is offer legal advice, or any form of counselling or therapy. Crucially, whilst they help identify solutions, they do not make decisions for you about whether to adopt those solutions: the decision remains the parents'

- **Child Inclusive/Child Consultation Mediation**

Some specialist mediators are able to meet with the children at the centre of the dispute, to listen to their voice and viewpoint, and report back to the adults what is said. This helps parents reach decisions informed by their children's wishes and feelings. It is more relevant for older children.

- **Collaborative Law**

The collaborative family law process involves each parent appointing their own collaboratively trained lawyer. However, instead of conducting negotiations at a distance (such as by letter or telephone), discussions to identify solutions take place at a series of face-to-face meetings involving the lawyers and the parents. Each parent has a lawyer by his or her side throughout the entire process. Collaborative law therefore enables parents to access legal advice as they go.

- **Negotiations through solicitors**

Instructing a solicitor does not mean a case is destined for court. Many cases are resolved without the case ever going before a Judge. Others settle quickly after court proceedings are issued. A competent and specialist children solicitor's repertoire includes an instinct and ability to recognise opportunities to negotiate, and to utilise those opportunities to achieve the best outcome for his or her client.

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Going Abroad with Children

Where there is no Child Arrangements Order in place, the removal of a child from the UK requires the consent of every person with Parental Responsibility. If that consent cannot be obtained, then the court's permission must be sought.

Taking a child out of the UK without consent might constitute a Child Abduction. If it is, it might have civil and criminal consequences. It is a serious matter, and there might be significant penalties. This is true even if the removal is for a short holiday.

Special rules apply where a Child Arrangements Order or Special Guardianship Order has been made. In these cases, the person in whose favour the order is made can usually take the child overseas for up to one month (Child Arrangements Order) or three months (Special Guardianship Order) without obtaining permission from other people with Parental Responsibility.

Even where there is a Child Arrangements or Special Guardianship Order, it is still sensible for a person with the Order in their favour to consult the other holders of Parental Responsibility about any proposed visit overseas. At the very least, good and cooperative parenting should mean that those with Parental Responsibility are informed in advance of the trip and provided with a travel itinerary.

For a full explanation of Parental Responsibility, and who has it, please see our "Children – The Range of Court Orders" factsheet.

What is a guardian? Do I need to appoint one?

A guardian is a person who assumes responsibility for, and has parental responsibility for, a child if his or her parents die.

Separated parents should consider appointing a guardian.

How do I appoint a guardian?

Most frequently, this is done in a will. It does not have to be. The legal requirement is that the appointment of the guardian is in writing, is dated, and is signed by the person making it.

Whilst it is not a formal requirement, it is sensible (and good manners!) to discuss with the person you are considering appointing as a guardian whether they are happy to accept the appointment. A guardian is usually a family member or trusted friend, but it can be anybody over the age of eighteen.

The appointment of the guardian takes effect on the death of all parents with parental responsibility for the child.

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Please feel free to discuss your own position and concerns. Contact your nearest office on:

T: 0800 916 9015
E: enquiries@slatergordon.co.uk
W: www.slatergordon.co.uk

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