



Free Child Arrangements Guide

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A guide to child arrangements following separation

At Moloney Family Law, we understand how challenging and stressful it can be to agree child arrangements following a separation or divorce.

Our expert team is here to support, guide and represent you, ensuring the best outcomes for you and your children. This guide outlines the various ways that you and your ex can manage child arrangements following your separation.

What are child arrangements?

Child arrangements are the agreements that parents reach following separation as to where the child will live and how much time the child will spend with the other parent. If you and your ex are not able to agree on the child arrangements following separation, then this guide may assist you.

Mediation Requirement

Before applying to the court, you must attend a Mediation Information and Assessment Meeting (MIAM), which is designed to assess if mediation can resolve the issue. There are exceptions to attending a MIAM which include

- Domestic violence
- Child protection concerns
- Urgent situations or related proceedings in the last four months
- Parties located outside of England and Wales
- Practical difficulties, such as imprisonment or disability

If mediation is not appropriate or has failed, court proceedings could be initiated.

Orders Available at the Court

When court intervention is necessary, the court can issue several types of orders to regulate child arrangements.

Child Arrangements Order

This order outlines where a child/children will live, spend time or have contact with a parent or another person.

Live With Orders

These Orders establish where the child will primarily reside.

Spend Time With Orders

This details how and when the child spends time with the non-resident parent.

Specific Issue Order

This resolves specific disputes, such as a disagreement about a child's education or medical treatment.

Prohibited Steps Order

This restricts a parent from taking particular actions, like removing the child from the country.

Our experienced solicitors at Moloney Family Law can help you to obtain the right order for you, always ensuring that your child's welfare remains the priority.

The No Order Principle

Law in England and Wales ensure that the court follows the 'No Order Principle' as outlined in Section 1 of the Children Act 1989. This means the court should avoid making an order unless it is necessary to improve the welfare of the child. In line with this, the court encourages parents to resolve their issues independently wherever possible.

If court intervention is unavoidable, we can offer the appropriate legal advice.

Presumption of Contact

The Children and Families Act 2014 introduced a presumption of parental involvement in a child's life, provided it is safe and in the child's best interests. This does not guarantee equal time with each parent but recognises the importance of maintaining relationships with both parents.

The Welfare Checklist

When making decisions about child arrangements, the court's primary focus is the welfare of the child. To assess this, the court uses the Welfare Checklist from the Children Act 1989, which include the following –

- The child's wishes and feelings (considered in light of their age and maturity)
- The child's physical, emotional and educational needs
- The potential impact of any changes in the child's circumstances
- The capability of each parent to meet the child's needs
- Any risk of harm or abuse

The Welfare Checklist is considered in each case with no part being more or less important than the other.

CAFCASS (Children and Family Court Advisory and Support Service)

CAFCASS play an important role in child arrangement cases. They conduct independent assessments to advise the court on the child's welfare. If a case goes to court, CAFCASS will carry out background checks with the police and social services and may interview the parents and child. The CAFCASS officer will then prepare a letter known as a Schedule 2 letter which sets out the results of the investigations and may give the court an indication of what to do next. At the same time, the application will be allocated within the Family Court and if the person applying for the Order has not attended a MIAM and has not provided a valid exemption, the Judge can direct the attendance of the parties to a MAIM before the first hearing take place.

When making an application to court you will need to also include a MIAM form, which either confirms you attended a MIAM meeting or that it is not necessary.

We will ensure that you are fully prepared for any involvement with CAFCASS and that the court has a complete picture of your child's needs.

First Hearing: First Hearing Dispute Resolution Appointment (FHDRA)

The First Hearing Dispute Resolution Appointment (FHDRA) is the first court hearing in most child arrangement cases. The aim of the FHDRA is to help both parties reach an agreement, with input from the court and CAFCASS. If no agreement is reached, the court will set directions for future hearings.

This might include the filling of statements, expert evidence and/or CAFCASS providing a report if there are welfare issues or other specific considerations which should be addressed in a report.

A report is often ordered when there is a dispute over where a child should live or when they should spend time with the other parent and can be limited, if appropriate, to the wishes and feelings of the child.

If the Court directs a report from CAFCASS this will not necessarily be the same CAFCASS officer who attended the first hearing. The CAFCASS officer will usually visit all of the parties in their respective homes and may also ask the parties to attend an appointment at their office.

A CAFCASS officer will usually speak to the child/children. If they are too young to discuss the case, they may choose to observe the child in each parties care. The CAFCASS officer may also speak with any relevant teachers or school staff. In cases where there has been social services involvement, the Court will often ask the allocated social worker to write

the report in the place of CAFCASS. If a CAFCASS officer is asked to file a report, at present Family Courts are taking approximately 14 weeks to be completed but might be more or less dependent upon the region or workload.

In most cases, some interim arrangements for contact will be agreed at this hearing until the matter can be concluded unless there are safeguarding concerns.

Contact and Domestic Abuse

In cases involving domestic abuse, the court must take additional precautions to ensure the safety of both the child and the parent who has experienced abuse. A Fact-Finding Hearing may be held to learn the truth of any allegations of abuse before the court decides on child arrangements. If abuse is proven, the court could limit or restrict the abusive parent's contact with the child.

Moloney Family Law has extensive experience in handling these sensitive cases and will ensure your safety concerns are properly addressed by the court.

Dispute Resolution Appointment (DRA)

The Dispute Resolution Appointment (DRA) is a further opportunity for both parties to resolve outstanding issues before proceeding to a final hearing. If an agreement is reached, the case can be resolved without further legal action. If an agreement is not reached, it may be necessary to have further direction hearings if there are outstanding issues.

Final Hearing

If no agreement is reached, the case will proceed to a Final Hearing, where the court will review all evidence, including CAFCASS reports and witness statements, before making a decision. The court will issue a Final Child Arrangements Order based on the child's welfare.

Although a final Order may be made, it is always open to any party to make an additional applications to court in respect of children matters at a later date. As children get older, their needs change and therefore the arrangements may need to change. Parents will again, at this stage, be expected to try and reach an agreement.

We will represent you throughout the final hearing, ensuring your case is presented effectively and your child's best interests are at the fore.

How Moloney Family Law Can Help

At Moloney Family Law, our dedicated family law solicitors are committed to supporting you through every step of your child arrangement case. From mediation and negotiation to court representation, we provide expert legal advice tailored to your situation, ensuring the best possible outcomes for you and your child.



For more information, please visit our website or contact Tracey at tracey@moloneyfamilylaw.com.



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