



Children Act Proceedings

We outline below the procedure when making an application to the Court in respect of your children, whether in relation to contact and residence issues, or specific matters affecting the children, such as education, medical treatment or holidays which cannot be agreed upon by their parents.

A more common occurrence regrettably now is when one party wishes to leave the country and take the children with them.

Proceedings can either be filed in the Family Proceedings Court or the County Court. The only condition is that the Court must be that local to the children's primary residence.

The Children Act 1989 states that the most important factor when a Court is considering arrangements for a child is that any decision must be in the children's best interests. The Court is directed not to make Orders unless it considers that an Order is beneficial to the child. This is because it is considered more beneficial for arrangements for children to be agreed between their parents wherever possible rather than imposed by an Order of the Court.

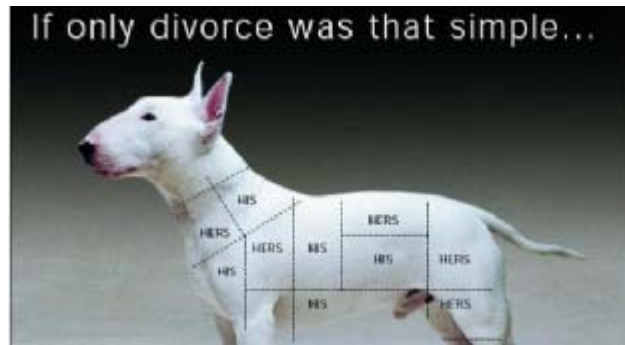
The first hearing of the application is designed to assist the parties in reaching an agreement and is called a Conciliation Appointment. Both parents are required to attend with their respective legal advisors to attempt to negotiate a settlement to the dispute. A CAFCASS Officer (Children and Family Court Advisory Support Service Officer) will also be present to assist the District Judge or Magistrates. The CAFCASS Officer is appointed by the Court and is independent of both parties.

If no agreement can be reached, the Court will make directions for the future conduct of the matter which may include the filing of statements of evidence, and the preparation of a report by a CAFCASS Officer. This report can either be a wishes and feelings report, if the child is old enough to express a view, or a welfare report if there are issues raised by either parent regarding the welfare of the child. Such reports can take up to twenty weeks to produce and if a report has been commissioned by the Court, a final hearing cannot take place until this has been filed.

An agreement can be reached at any stage of the proceedings and an Order will usually be made so as to be sure that the arrangements between the parties for the children are clear. If an agreement is not reached and matters proceed to a final hearing, both parties would normally be represented by a Barrister at such hearing, and would have to give evidence orally to the Judge/Magistrate. Each party would also be cross examined but it is rare for a case to proceed to a Final Hearing as the majority of matters do reach a negotiated conclusion.

Should you require further information, or have any queries, please do not hesitate to contact us so we can discuss matters further with you.

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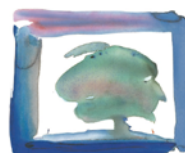
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