

Children and The Family Court

The Family Court can be asked to assist in a number of different ways. There are several section 8 orders, so called because section 8 of the Children Act 1989 sets out the law. The common orders are;

- **Child arrangements orders** which cover where children should live and what time they should spend with the parent with whom they do not live (used to be contact and residence)
- **Specific issue orders** which are for when a particular aspect of the child's life requires a decision, for example schooling or medical treatment
- **Prohibited steps orders** for when one parent wants some event to not happen, for example to prevent a name being changed or a visit abroad

Any person with **Parental Responsibility** for a child can apply to the court for an order about that child.

The mother automatically has parental responsibility and the father acquires it by either being married to the mother or by being on the birth certificate. An unmarried father who was not on the child's birth certificate or a same-sex partner can acquire it either by agreement or by application to the court.

Those without parental responsibility generally cannot apply for a section 8 order unless they have permission, however this is not generally withheld for a genuine applicant.

The Welfare Checklist

With all applications under the Children Act 1989 the best interests of the child are the court's paramount consideration. The Welfare Checklist is a list of primary considerations. They are;

- The ascertainable wishes and feelings of the child
- The child's physical, emotional and feelings of the child
- The likely effect of any change in the child's circumstances
- The child's age, sex, background and other characteristics
- Any harm which the child has suffered or is at risk of suffering
- How capable each of the child's parents, and any other relevant person is of meeting the child's needs
- The range of powers available to the court

Finally, the court has to measure whether it would be better for the child to make no order at all.

CAFCASS (Children and Families Court Advisory and Support Service) A CAFCASS officer is a social worker whose role is to prepare reports for the court to assist with assessing the child and the implications of the welfare checklist. If a welfare report is ordered then you, the other parent and the child(ren) will need to be seen by the CAFCASS officer.

Mediation. Before you make an application, you must (unless you are exempt) attend a **Mediation Information & Assessment Meeting (MIAM)**. The aim is to see if mediation can resolve the issue in dispute so that court hearings can be avoided.