

Child Contact Quick Guide

When parents separate or indeed if they have already separated by the time a child is born, decisions need to be made about where the child will live and what arrangements should be made for the child to spend time with the other parent. This however is not always easy and often some parents are unable to agree. In such a situation we can offer mediation to try to identify and resolve issues and more importantly open the lines of communication. Occasionally it is necessary to issue an application to the court for an order.

What is a Contact or Residence Order?

A contact order is an order under section 8 of the Children Act 1989 requiring the person with whom the child lives, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other.

A residence order is an order under section 8 of the Children Act 1989 setting the arrangements to be made as to the person with whom the child is to live. In addition, a residence order automatically gives parental responsibility to any person in whose favour it is made for so long as the order is in force.

What does the Court have to consider before making a Contact or Residence Order?

There are a number of factors but the most important is the 'Welfare Checklist.' There is no statutory definition of 'welfare' but it is a concept which is easy to recognise and understand. None of the listed items are more important than the other. The Court when deciding a case will be considering which is the best course of action to best serve the welfare of the child.

What is the Welfare Checklist?

The checklist is set out in under Section 1(3) of the Children Act 1989 and provides that the court must have regard in particular to:-

a) The ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding).

b) His physical, emotional and educational needs.

c) The likely effect of any change in his circumstances.

d) His age, sex, background and any characteristics of his which the court considers relevant.

e) Any harm which he has suffered or is at risk of suffering.

f) How capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs.

g) The range of powers available to the court under this Act in the proceedings in question.

If you would like further information, contact us today to arrange your free initial consultation.