

## Children Act Matters

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This guide is designed to assist those people who are involved in disputes relating to children and need to know more about the procedure which may affect them.

### 1. Am I required to go to Court to make arrangements for my children?

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There is no need to go to Court unless there is a dispute. Indeed, there is a presumption that the Court should not intervene unless it is in the best interest of a child and the Court will only make an order if there is a dispute - otherwise no order will be made. You are encouraged to discuss and negotiate with the other parent all arrangements relating to your children. It may be helpful to make a Parenting Plan which covers the practical issues of parenting. <https://www.cafcass.gov.uk/grown-ups/parents-and-carers/divorce-and-separation/parenting-together/parenting-plan/>

If you are unable to discuss matters with the other parent then we will be able to negotiate on your behalf. If that does not resolve matters, or as an alternative, a referral can be made to a mediation service to enable the issues to be discussed, and hopefully resolved with an independent third party. Mediation is a dispute resolution that works very well for many couples. The mediator is a neutral person who can help you both to make decisions. Mediation is one of the most cost effective and time effective ways to resolve a dispute. It is child focused and is non-adversarial so may reduce antagonism between you. You also retain more control over decisions about the future. Mediation tends to take place over 2 – 5 joint sessions. Legal Aid is still available for those that are financially eligible.

### 2. Court proceedings

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Sometimes however mediation is not suitable or parental disagreements and family situations develop to the point where issues do need to be resolved by the court. The Children Act 1989, amended by the Children and Families Act 2014, was introduced to make it easier to go to court to ask for some specific action or for the court to intervene in order to preserve the best interest of the child. It attempts to make it less stressful when parties are involved in disputes, and there are various ways in which it may help a child.

### 3. What type of orders are available?

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The law currently provides three main orders, known as section 8 orders, to assist in family disputes. These are as follows:

#### **(i) Child Arrangement Order**

Previously referred to as Custody, Access, Residence or Contact, the arrangements regulate:

- a. With whom and when a child is to spend or otherwise have contact with a person (old Contact Orders);
- b. With whom and when a child is to live with a person (old Residence Order).

There is a presumption that unless the contrary is shown, that involvement of each parent in the life of a child will be in the best interests of that child.