

The Children Act 1989 provides the legislative framework to resolve family disputes relating to children. Couples who separate are encouraged to resolve their differences as amicably as possible. There is an overwhelming acceptance by all professionals, that couples who can work out a routine and arrangement for their children amicably, are acting in their best interests.

Parental Responsibility

This is a concept giving parents the right in law to have a say in the fundamental decisions in their children's lives. Issues regarding health, education, religion, their potential change of name, and consent to a child's marriage post-sixteen, all feature.

Mothers automatically have Parental Responsibility unless deprived of this through Local Authority or care proceedings. Fathers have Parental Responsibility in the following circumstances: if married to the mother at the time of the child's birth; if they subsequently marry the mother of their child(ren) or if they were named on the birth certificate of a child who was born after the 1 December 2003. A father can acquire Parental Responsibility with the mother's agreement or by Court Order.

Court Intervention

Only if the relevant parties cannot agree on the arrangements for their children will the Courts entertain an application from either parent to assist in working these out. The two most common applications made are:

- Where the children are to live (the **residence** of the child)
- How often the children see their non-resident parent (**contact**).



Other applications to Court for Orders include **specific issue**, which requires a parent to do a specific thing and **prohibited steps** which requires a parent to refrain from doing a specific thing. An example of a specific issue application could be deciding which school a child is to attend if the parents cannot agree as to what is in the child's best interests for their education. An example of a prohibited step application might be to ask the Court to stop a parent from doing something like moving the child abroad.

Court Welfare Checklist

The Court will only make an Order under the Children Act if it is in the child's best interests to do so. In doing so, the Court must take into consideration the welfare checklist which is laid down by statute. A Judge must bear in mind:

- The ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)
- The child's physical, emotional and educational needs
- The likely effect on the child of any change in their circumstances
- The child's age, background and any other characteristics which the Court considers relevant

- Any harm which the child has suffered or is at risk of suffering
- How capable each of the child's parents or guardians are of meeting their needs
- The range of powers available to the Court under the Act.

CAFCASS Officer

Longer running disputes at Court often need the help of the Court and Family Welfare Officer, known as a CAFCASS Officer. They

assist the parties at the initial appointment in the County Court or Family Proceedings Court. These Officers are sometimes commissioned to assist with the writing of a welfare report. This can take between 10 to 12 weeks to prepare. The CAFCASS Officer can work with families and liaise with Social Services and the children's school if appropriate.

Once the Court has made an Order, then this usually lasts until the child is aged 16, unless there are exceptional circumstances.

Buckles Solicitors LLP – key contacts

Buckles Solicitors LLP has a strong Family Law Department with in-depth experience of dealing with the breakdown of family relationships, whether in marriage, cohabitation or civil partnership, whether or not children are involved.

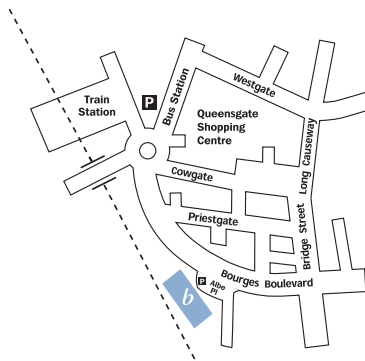
We tailor solutions to the needs of each client offering a bespoke service based on an individual's circumstances, and understand the related practical issues, such as how to separate, where to live, the arrangements for any children, and money or property matters.

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