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Children Matters



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Break ups can be a challenging and emotionally taxing process, especially when children are involved. At Judge & Priestley, we understand that your children's happiness and stability are your top priorities during this life-changing event.

Parental Responsibility

Parental responsibility will give the parents, not only the right to make decisions in relation to the children, but also a responsibility to act in the best interests of the child and to ensure their wellbeing is always protected.

Mothers and biological fathers who are married to the mother at the time of the child's birth acquire parental responsibility for that child automatically. Unmarried fathers will also acquire parental responsibility by being named as the father on the child's birth certificate.

Step-parents can also obtain parental responsibility for a child by signing a parental responsibility agreement. The agreement will need to be signed by all of those who hold parental responsibility for a child. Alternatively, a court order can be obtained.

When the identity of the father of the child is disputed, either party can make an application to the court for a declaration of parentage. This will entitle the father to then make an application for parental responsibility, or to make an application to change the child's birth certificate and add his name as the child's father.

Arrangements for the Children

We recognise that there may be difficulties agreeing on how the children should be cared for post separation, and we are here to provide you with advice on the most appropriate arrangements for your children, always putting the child's best interest as paramount.

In the event that everyone with parental responsibility for a child can agree on who the child(ren) should be living with and the arrangements, then there is a "no order principle". This means that if the parents are in agreement, there is no need for them to make an application to the court or obtain a court order. It is recommended however that the parents enter into a parenting plan dealing with the future arrangements for the children following a separation, to ensure there is clarity as to what the plan will be. This parenting plan will also be taken into account by the court in the event that court proceedings are required in the future.

How does the court decide the arrangements for the children?

Parents with shared responsibility for the children often discuss an arrangement taking into account the best interests of the children. Problems arise when the best interests of the children are pushed to one side, and negotiations are founded on what each parent would want to happen.

Many parents can agree the arrangements for the children but other parents are assisted by attending mediation or by negotiations through solicitors. In some cases, it may be necessary to make an application to the Court.

We can advise you as to your position whether it is in relation to negotiation, mediation or where court proceedings become necessary.

Specific Issue Order

In the event that there is a disagreement between the parents on specific issues of the child's life, such as what school they should attend, a holiday abroad, medical treatment, or religious matters, either parent is entitled to make an application to the court for a specific issue order. We would be able to advise you in relation to this matter, and how to present your case to the court.

Emergency Applications

In some instances, emergency applications need to be made in respect of children. For instance, if the children have been taken away from home without warning or if you believe that the children are at real risk of harm/abduction.

If there is a real threat that the children might be removed from the country by one parent without the other parent's consent an application can be made to the Court for a prohibited steps order to prevent their removal and a location order sought in the event that the children's whereabouts are not known. It is essential in such cases that you instruct a solicitor specialist in international law and that you act immediately to ensure that the proper steps are taken to safeguard the children from the outset.

If you wish to relocate with your children to another area of the UK or abroad and the children's other parent does not agree, you will need to make an application to the Court.

Relocation within the UK and abroad

In the event that one parent wishes to relocate within the UK with a child, they should have the agreement of the other parent, or in the absence of this, an order from the court.

If the parent wishing to relocate does so without the other parent's consent, the "left behind parent" would be able to make an application under the Children Act for the return of the child to the area where they used to live. This application will need to be made as quickly as possible.

If a parent is concerned that the other parent may be attempting to move the child to another part of the UK, an urgent application for a prohibited steps order can also be made, to ensure the court considers this issue prior to the move. In some circumstances, this application can be made without notice on the respondent.

In the event that one of the parents wishes to move abroad with the children, they will need the permission of the other parent and anyone with parental responsibility in order to do so. In the event that there is no agreement, the parent wishing to relocate will need to make an application to the court for "leave to remove" or "permission to relocate".

These applications are complex and very technical and a lot of preparation will be required whether you are the applicant or the respondent. It is therefore crucial that legal advice is taken prior to the making of this application or as early in the proceedings as possible.

Our solicitors in the family department specialise in international relocation and children disputes and will be able to advise you throughout the process.

Child Support

When parents separate, both parents are responsible for financially supporting the children and the costs of their upbringing.

Child support will therefore be paid, as a starting point, to the parent that has the day to day care of the children.

Child maintenance serves the purpose of providing sufficient financial support to allow you to meet the costs of raising your children. It normally involves a regular financial payment to contribute to the child's general living costs, but it can also cover other payments such as school fees or housing costs.

It is encouraged that families try to make arrangements between themselves before a government scheme, or in some cases, a court order is utilised.

In the event that no agreement is reached between the parents, the starting point will be for either parent to approach the Child Maintenance Service, or "CMS". This is a government run service that will calculate the amount of child support that needs to be paid by the parent that spends a lower amount of time with the children.



The amount of child support payable will depend on various factors, such as:

- The income of the non-resident parent;
- The number of children that child support relates to, and their age;
- The average number of nights that the children spend with the non-resident parent;
- Whether there are any other children cared for by the non-resident parent.

Claims can also be made for financial provision via the Courts for any relevant children under the Children Act 1989. Such provision is not to be in place of child maintenance, if this can be claimed via the Child Maintenance Service. Such claims can include a claim for a lump sum, for a property to be settled on the children until they reach majority, for school fees and for a child with special needs.

It is imperative that you seek advice from a family law expert, if you need to pursue such a claim.



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