

Contact Orders

A Contact Order is “an Order requiring the person with whom the child lives, or is to live, 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”. The law in this area is governed by the Children Act 1989 which sets out the rules concerning applications for a Contact Order (Section 8). The aim of this information sheet is to give you details of how the Court deals with disputes about how often a child should see someone with whom he or she doesn’t live. This used to be known as “access”.

A parent of a child can apply to the Court at any time for an Order to allow a child to have contact with them. Other people connected to the child, such as grandparents, aunts, uncles or older brothers or sisters of the child need to apply to the Court for the Court’s permission to issue an application for contact in the first instance.

Orders cannot usefully be obtained to make an absent parent see a child.

Court Procedure

1. A written Application is made to the Court with the appropriate Court fee.
2. The Court arranges a preliminary appointment, usually within 21 days of receiving the application. The papers are then sent to the other party. At this preliminary appointment, known as a “**Directions Appointment**”, an Officer of the Children and Family Court Advisory and Support Service (CAFCASS) is usually present and the parties are given the opportunity to see him or her to discuss the case to see if an agreement can be reached. If no agreement is reached, the Judge will set a timetable for how the case is to proceed.
3. Often another CAFCASS officer will be asked to prepare a report on the case. This currently takes up to seven months to conclude. The Court relies heavily on the recommendations of the CAFCASS Officer (formerly called the Court Welfare Officer) in reaching its final decision. The CAFCASS Officer is a very experienced person, usually with a social work background. He or she will see both parties in a case, and will usually interview the child to see what the child’s views are (subject to their age). The CAFCASS Officer reports the wishes of the child to the Court to avoid the need for the child to have to go to Court.
4. The Court may also direct that the parties have to file statements setting out their version of events relating to the case.
5. A review hearing is fixed for a couple of weeks after the CAFCASS Report is due to be completed.
6. If the matter still cannot be resolved, a final hearing is arranged so that a Judge can hear evidence from each party about the case and make a final Order.

The Court’s starting premise is that it is in the child’s interest to have contact with an absent parent, so that the child grows up with a balanced view of that parent and has the opportunity to know both parents. In cases where there has been violence there is no automatic bar on the violent parent having contact, but Courts are becoming increasingly careful as to how such cases are dealt with.

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The Court has to give “paramount consideration” to the **welfare of the child** when deciding an issue of contact. The Court also has to pay specific attention to the following criteria:-

- (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 on him 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.

It is important that serious thought is given to a case before an application is made for a Contact Order. The reason for this is that it is an inherently stressful type of case, and will have an unsettling effect on the entire family and especially the children. Also reviews of the final Order are common, increasing the cost and length of any Court proceedings.

As an alternative to applying to the Court for a Contact Order, a referral could be made for mediation. This is where the parties with a dispute visit a trained mediator who is independent who can listen to both sides of the argument and then help the parties to see each other’s point of view. Sometimes this can be a very effective way of resolving a problem.

If a parent refuses to comply with a Contact Order once it has been made, further proceedings can be taken against that parent to force him or her to comply with it. Ultimately, a parent who refuses to comply with a Contact Order runs the risk of being imprisoned for contempt of Court and/or be the subject of a fine.

Please note that this information sheet is designed to cover a wide number of circumstances and cases. You will be given additional information about your own particular case.

Please speak to one of our specialist family solicitors for further advice on 01992 558 411.