

Contact between your child and their other parent: information for single parents

It is generally acknowledged that it is usually in the best interests of a child to be able to continue and develop their relationship with both parents as well as with other relatives. However, it is recognised that contact should be safe both for the child and for you. On the other hand, you cannot make a non-resident parent or anyone else have contact with your child even if the child wants contact and it would be in the best interests of the child.

This factsheet explains the things to think about when making arrangements for contact, what can help parents to come to agreements about contact and what to do if there are disputes and/or other problems with contact arrangements.

Considering your children's needs when deciding on any arrangements for them

Make the situation as easy as possible for your child

Life is easier and happier for children if arrangements can be made agreeably and if any hostile feelings about the other parent are not expressed to the child. It can be very hard to do this, but it is important for children to be kept out of any quarrel their parents may have with each other. They need to be reassured that you both still love them and that you not being together is not their fault.

It will be easier for the children if they feel their parents can get along and sort things out. It is helpful to be as positive and co-operative as possible about the other parent and make any contact visits between them and your child as easy as possible.

If you have feelings of grief, pain and anger, for example, because of the end of a relationship with your child's other parent, talk about how you feel to friends, adult family members and/or an organisation such as Relate which can provide counselling or just a listening ear (see Further help and information on page 8). Never underestimate the extent to which children, including young children, pick up feelings of tension and hostility between you and the other parent and the distress this can cause.

Making sure the children's feelings and wishes are heard

What children want and need most is to have things explained clearly to them (bearing in mind their age and level of understanding), and to be listened to.

If you are in disagreement with the other parent about the children, it is important to think about your child's feelings and wishes. An older child or children may know exactly what they want, but may fear hurting one of you and so keep quiet. Give your child or children time to talk about what is happening and to say what

What is ... ?

Access and contact: These two words mean the same thing – 'access' is the old legal term for the time a child spends with the parent they do not live with full time and 'contact' is the new legal term for the same thing.

A non-resident parent: The parent who does not live with their child on a full-time basis.

Direct contact: This is the time your child actually spends with the non-resident parent. It may be visits, days out and/or overnight stays, including holidays.

Indirect contact: This means contact between the child and the non-resident parent such as telephone calls, text messages, letters and/or emails.

Supervised contact: This is when the child sees the non-resident parent with another adult present. The other adult may be a friend or relative or a volunteer or worker at a contact centre. See also Is contact supervised in a contact centre? on page 6.

they would like. Listen to their feelings, even if it makes you feel sad, guilty, or upset. Remember that it is not unusual for a child to say one thing to you and another to the other parent in an attempt to please both of you.

If you take their views into account and they know this, it will help them to adjust and it will help you reach decisions that are in their best interests.

Note: There is no set age for children to become able to make decisions for themselves; it will depend on their maturity and understanding, which will vary in each child. However, as a rule of thumb the older the child the less likely a court will be to come to a decision against the child's wishes.

Coming to agreements about contact

It is generally best for the children if you can agree about arrangements without the need to go to court (unless the arrangements are not in the best interests of the child).

While you are trying to reach an agreement it is important for both of you to keep any disagreements and tensions away from the child and, when you have an agreement in place, that you do not underestimate your child's ability to pick up any tensions between you at the handover. Try to keep handovers as easy and unemotional as you can. Lingering handovers by either parent are rarely helpful to the child. It is sometimes helpful to children, particularly shortly after the breakdown of a relationship when emotions are raw, to ask a third party to help with handovers to avoid your child worrying about confrontations between you both.

However, it may not be possible for you to discuss these matters with the other parent, particularly if there is a history of domestic violence or intimidation, and in this situation you should always seek advice from a solicitor. For information about solicitors and help with legal costs, ask for our factsheet *Getting legal help*.

There is no one answer as to how long children should spend with each parent. Many parents eventually come to an arrangement whereby the children spend every other weekend, perhaps a visit or visits in between and part of school holidays with the non-resident parent. In some cases this will be too much for the children, in others too little. This needs to be worked out so that children feel comfortable and any arrangements fit in with their schooling and social activities and also are practical for both parents.

Negotiating with the other parent

When you start to negotiate with the other parent it will help if you have a clear idea of what you think is best for your child. However, as it is a negotiation, it is also important for both of you to be flexible, if the terms suggested are reasonable. At a later stage, if you need to go to court, it will also help if the court thinks of you as co-operative.

The Department for Children, Schools and Families has published a free booklet called *Parenting Plans – Putting your children first, a guide for separating parents* that can help both parents agree on arrangements for the children. You can get a copy of this booklet by calling The Stationary Office on 0870 600 5522 or download it from www.tsoshop.co.uk (put Parenting Plans in the search box).

If you are both willing to try to come to an agreement, but find it difficult to talk things through alone together, mediation may be helpful. For more

information, contact the National Mediation Helpline – see Further help and information on page 8.

If you feel bullied or intimidated into making an agreement you are not happy with, negotiation or mediation will not be suitable for you and you should ask a solicitor for advice. For information about solicitors and help with legal costs, ask for our factsheet *Getting legal help*. If contact cannot be decided on through negotiations or mediation, it may need to be decided by the courts. See Going to court if you cannot reach an agreement about contact on page 3.

Planning ahead

It will help to plan ahead so that everybody knows where they stand. It is also easier and less emotional to plan in advance what will happen on important dates such as birthdays, religious festivals and other significant days and whether you will alternate the arrangements each year.

Depending on their age, your children may want to be involved in the process of deciding, for example, which part of the holidays they spend with each parent, whether they should be picked up after school on a Friday or on a Saturday morning or what should happen on birthdays and other significant days.

Can a non-resident parent have contact whenever they choose?

Even if a non-resident parent (or someone else) has parental responsibility - for more information about this, ask for our *Parental responsibility* factsheet – this does not mean that they have an automatic right to say exactly when contact should take place: this is something that should be worked out between parents and should take into consideration the child's needs and wishes. If contact cannot be decided on through negotiations or mediation, it may need to be decided by the courts – see Going to court if you cannot reach an agreement about contact on page 3.

What happens if one of us wants to change the arrangements for contact?

Unless there is a court order preventing you from doing so, you should be able to change your arrangements by discussion and agreement between you. If you cannot agree through negotiations or mediation you may need to apply to the court to decide – see Going to court if you cannot reach an agreement about contact on page 3.

What decisions can the non-resident parent make during contact visits?

The non-resident parent will be responsible for your child's care while they are with them. During this time they should be allowed to make reasonable decisions about the child, such as where to take them and what to eat (unless this strictly goes against the child's usual diet). Any decision that significantly disrupts the child's normal routine, or is likely to cause objection from you, should be avoided. If, for instance, the child's other parent wants to take them to have their ears pierced or even have their hair cut, he or she should check with you first if this is likely to cause upset.

Sometimes it is difficult to accept decisions made by the other parent, even if there is no risk of harm to your child. For example, if the other parent wants to introduce your child to their new long-term partner, and there is no danger of this person harming your child, this may cause you to feel hurt or angry, but you will still have to accept the situation unless there is a good reason why an introduction at a particular time would not be in the child's best interests. It is of course always helpful if the other parent can discuss this type of decision with you first, but this may not always happen. Talking to friends or other people about your feelings will help.

If your child refuses contact with their other parent

Sometimes children may refuse to agree to the contact arrangements being made for them. There may be different reasons for their refusal. Your child may feel let down by their other parent, especially if they blame them for leaving the family or if a previous contact visit hasn't gone to plan. In this situation, you may want to talk to your child and allow them to discuss how they feel. Although it is generally good for children to have contact with their other parent, you should also give your child time to come to terms with the new family situation.

A child may also refuse contact as a response to messages they have received from you about the other parent or because they don't want to be disloyal or let you down. Again, let your child talk about their feelings and take steps to ensure that you do not do or say anything that may make your child think you are hurt or upset about their relationship with the other parent.

There may be other reasons for your child not wanting contact with their other parent, which are not always obvious. These might include previous emotional or physical abuse, which you were not aware

of, or the child not feeling safe when having contact. If this is the case, you will need to talk to a solicitor about applying to the court for an order to limit or prevent contact. For information about solicitors and help with legal costs, ask for our factsheet *Getting legal help*.

What happens if I refuse to allow contact to take place?

If you refuse contact between your child and the other parent, it is likely that they will apply to the court for a contact order – see *Going to court if you cannot reach an agreement about contact* below. If you have refused contact because you are worried about the safety and/or well-being of the child or about your own safety, make sure you explain to the court officer and/or judge the reasons for your fear.

Going to court if you cannot reach an agreement about contact

The court will usually only become involved if you and the other parent or other person cannot agree on arrangements for the children and mediation is not suitable or has not worked. The court may be involved at an early stage if, for example, there are issues of domestic violence or there is a fear that one parent will remove a child from your care and certainly if there is a fear that a parent is about to take a child out of the country without your agreement.

The court will only make an order if it considers that to do so would be better for the child than to make no order at all, but in practice usually does make an order.

The court can make a Contact Order that states that the parent with whom the child lives must allow the child to have contact with the other parent (or another appropriate person) and how that contact should be made – usually visiting or staying overnight and holidays, but it could just be contact at a contact centre or by telephone or letter/email. This kind of order will normally only be made for a child under age 16 although in exceptional circumstances the order may be made for a child under 18.

Who can apply to a court for contact with a child?

The following people can apply to court for a Contact Order:

- Parents and Guardians (this may be a person who has been appointed to act as Guardian to a child on the death of a parent or another Guardian).
- A person with a Residence Order (a court order that states with whom a child lives) for the child.

- Any partner in a marriage or civil partnership (whether or not continuing) where the child is a child of the family.
- Any person who the child has lived with for at least three years within the last five years (as long as this has not ceased within the last three months).
- Anyone who has the consent of all persons who have parental responsibility or a Residence or Care Order in relation to the child.
- Anyone who, if the child is in care, has the consent of the local authority.

Other people (including grandparents and other relatives and the child themselves) can apply if they have permission from the court to do so.

To get permission they will have to complete form C2 and explain their connection to the child and give an outline of the application they wish to make.

When considering whether or not to give permission, the court will look at the nature of the proposed application, the person's connection with the child, any risk of disrupting the child's life and, if the child is being looked after by a local authority, any plans the authority may have for the child's future, and the wishes and feelings of the child's parents.

The court process

For information about finding and using a solicitor and help with legal costs, ask for our factsheet *Getting legal help*.

Whoever is making the application to the court will complete a form stating why an application is being made to the court.

The court will fix a date for the application to be heard. In many courts the first appointment will be for 'in-court conciliation'. This is a process where both of you, together with any legal advisers, meet with either an officer from the Children and Family Courts Advice and Support Service (CAFCASS) or in Wales a family proceedings officer and/or a district judge to discuss the particular problems and to try and reach a quick agreement. You are not obliged to reach an agreement during conciliation. If any agreement is reached, the court will decide on whether they will make an order confirming the agreed arrangements, although judges will only make an order if they think it is better for a child than making no order at all.

If your child or children have reached the age of nine, they will generally be expected to attend court on the day of the conciliation appointment so that the CAFCASS or family proceedings officer can talk to them outside the court room and try to find out what their wishes may be. It is the responsibility of the person

with whom the child lives to ensure that the child or children attend court on the day in question.

If you cannot reach an agreement, the court will fix a date for the case to be heard in court, when a judge will have to decide on the issues that are still in dispute. If there is a serious issue the court will order a report from a CAFCASS officer (see below). Unfortunately the time lag for a CAFCASS report in many parts of the country is nearly four months so the court may have to fix a date for the judge to decide what should happen about contact in the mean time.

In making any decisions about a child, the judge has to apply the following list of factors, known as the Welfare Checklist, before making an order:

- The wishes and feelings of the children, taking into account their age and understanding.
- The children's physical, emotional and educational needs.
- The likely effect on a child of any change in their circumstances.
- The age, sex and any relevant characteristics of the child.
- Any harm which the child has suffered or is at risk of suffering.
- How capable you are as parents to meet the needs of the children.
- The range of powers available to the court in the proceedings in question.

The role of CAFCASS/ family proceedings officer and the judge's decision

The main function of the CAFCASS or family proceedings officer is to:

- safeguard the welfare of the children involved in the court process;
- give advice to the court;
- convey the children's wishes and feelings; and
- provide information and advice to the family.

Where a case is not settled by agreement or at the conciliation appointment, the judge may ask a CAFCASS or family proceedings officer to prepare a report and both parents to file written statements setting out their positions and arguments. It is important that you give as much information as possible about the reasons for any concerns you have. The officer will usually meet you and the other parent on separate occasions, your child alone and with you and the other parent (again on separate occasions). The officer can make more than one visit to see your children.

If a CAFCASS or family proceedings officer is 'given cause to suspect that the child concerned is at risk of harm', they must make a risk assessment and provide

the assessment to the court.

The officer must also apply the Welfare Checklist (see above) when setting out his or her recommendations as to what should happen. The report will be sent to the court and each of the parents and their advisers in advance.

The judge will give careful consideration to the contents of the officer's report. The judge is not obliged to follow the recommendations set out in the report, but must give good reasons as to why they haven't, if they choose not to.

When will a court refuse contact?

The courts have refused to make Contact Orders in various circumstances where it has found that contact is not in the child's best interests. The following are examples only:

- Where the children have suffered from sexual or physical abuse or where there is a risk of the children suffering significant harm if the contact takes place.
- Where the fundamental emotional need of the child to have contact with both parents is outweighed by the risk of harm he or she might suffer, taking into account his or her wishes and feelings if a Contact Order is made.
- Domestic violence (see below).
- If there has been a difficult history and the issue of contact has caused serious stress to the child, the courts may reluctantly accept that contact is not in the child's best interests.
- Where the parent seeking contact consistently denigrates, undermines or is abusive to you.

This does not mean that if one of the above situations applies to you, the court will refuse contact; it depends on the judge and the individual circumstances.

If your child has suffered abuse

The court will not always deny contact, but can order that it is only supervised contact. The court will take into account all the circumstances. The following are examples only:

- The nature and extent of the abuse and the effect of the abuse on the child.
- Whether there is alcohol or drug use (supervised contact may be ordered in this situation).
- Whether it would be damaging to your child to see the abusive parent.
- Whether there is more than one child at risk of abuse.
- How hostile the other parent is to you and whether this would harm your child or children.

If there has been violence against you

You are required to give details of any domestic violence on the court application form. It is now recognised that it is harmful for children to witness violence between adults, and usually harmful for them to be in an environment where violence is taking place. This includes seeing or hearing ill-treatment of someone else, which has affected the child. The courts now consider this when granting Residence or Contact Orders. Although domestic violence is not a bar to contact, it is a factor that the courts must take into account in cases where direct contact is being proposed.

The court can order a fact-finding hearing to look at all relevant evidence. This might involve social services, health visitors, the police and anyone else who might provide a report, to verify whether domestic violence has taken place. At this time, the courts will normally decide whether any interim contact (contact that takes place before a final order is made) should take place before the hearing, taking into consideration your and your child's safety. When considering whether interim contact should be allowed, the court should take into consideration:

- the risk of harm to the child if contact is ordered or refused;
- how contact should take place – whether it should be supervised or not; and
- at any stage, whether to make an order that the other parent does not assault, intimidate, harass, molest or threaten you (this is called a Non-Molestation Order).

The court should only make a Contact Order if it is satisfied that your and your child's safety is guaranteed, and should explain how its findings on domestic violence have affected its ruling.

If you have been traumatised by sustained abuse from your former partner and you have obvious feelings of hostility for them, it may make it difficult for you to accept your child's contact with the other parent. The court will be reluctant to allow such hostility to get in the way of making a Contact Order if contact would otherwise be in the best interests of the child but will consider the case very seriously. It will look at all the circumstances and will usually order some degree of contact, unless doing so would create a serious risk of emotional or physical harm to the child.

The court can order that a parent who has implacable hostility (that is, your feelings cannot be changed) should have some form of counselling or therapy in order to make contact between the child and the other parent more acceptable.

What are contact centres?

These are places where a non-resident parent (or another relative) can have contact with the child in a neutral environment that is not in either parent's home. Contact centres are normally staffed by volunteers and can usually be found in places such as local community centres or church halls. They operate similarly to playgroups or community centres and many will charge a fee for their services.

Parents will usually attend contact centres because a court order has been made where the court considers that there is a possible risk of harm, either to the parent with care or the child. Social workers, solicitors and Children and Family Court Advisory and Support Service (CAFCASS) officers can also make referrals. It is unlikely that you would be able to self-refer to a contact centre, which provides supervised rather than supported contact – see *Is contact supervised in a contact centre?* below.

Using a contact centre is not usually a permanent solution as, after a time, it is hoped that the situation will move on so that contact can take place elsewhere.

In many areas there is a shortage of contact centres and it is not usually possible for contact to take place in one for more than two hours at a time on alternate weeks – usually a Saturday.

Is contact supervised in a contact centre?

Often the contact taking place in a contact centre is called 'supervised contact'. In practice, it is rare to actually find a contact centre that provides supervised contact visits. What is actually provided is 'supported contact', which means there will be volunteers around who will generally oversee all visits taking place, but do not supervise individual contact arrangements. Anyone who is concerned about the type of service that a contact centre provides should speak to staff beforehand to find out what it will be like. There are however some contact centres that specialise in providing supervision. For further information about contact centres, contact the National Association of Child Contact Centres on 0845 4500 280 or see www.naccc.org.uk

Contact and paying child maintenance

All parents have a responsibility to maintain their child financially until the child reaches 16, or 18 if in full-time education or training (unless the child is adopted), even if they do not live with the child and do not have any contact with the child. However, the courts see child maintenance and contact as unrelated issues and you cannot refuse contact to the child's other parent, because they are not paying any or sufficient maintenance for the child.

Note: If your child stays overnight with their other parent for more than 52 nights a year, this will reduce the amount of a Child Support Agency maintenance calculation. For more information about maintenance, call the Lone Parent Helpline on 0800 018 5026.

Contact and holiday arrangements

I am taking my child abroad. Do I need permission from their other parent?

- If you have sole parental responsibility, you do not need the permission of the other parent to take your child abroad.
- If you have joint parental responsibility you will need the consent of anyone else with parental responsibility, unless you have a Residence Order.
- If you have a Residence Order for your child, you can take them abroad for up to a month without the consent of anyone else with parental responsibility unless the court has ordered otherwise.

I'm finding it difficult to come to an agreement with my child's other parent about holidays

It can help to come to agreements about your child's holiday time if you are able to plan in advance for all holiday periods and special dates. Don't forget to involve your child in the planning arrangements (depending on their age and understanding) so they feel included and secure about what is happening. If they are spending time with their other parent and/or other family members, give them as much advance notice as possible.

If either you or the other parent feel worried about your child going away it may help ease your minds to share as much information as possible about the trip (details of travel arrangements, where your child will be staying and how you can contact them) and your child's needs and abilities (for example, food, swimming ability).

Changing or varying court orders

If there are problems with a court order you should not, except in an emergency, change or disregard the terms of the order without the agreement of the other parent. The court has power to alter a court order at any time although there has to be a good reason for doing this. However, what is in the interests of the child at one stage will not necessarily be right at another and courts recognise this. In the first instance you should always try to resolve any problem that arises by agreement or mediation but if that does not work you may have to return to court to resolve the problem.

Can the court force me to stick to a court order against my wishes?

If you consider a court order to be wrong you may be able to appeal against it. This is difficult and you should get legal advice. However, if for example you do not make your child available for contact as ordered by the court it has the power to enforce the order. Before doing so a court will always consider whether an order is still right in the interests of the child. However, in the last resort the court has powers to enforce the order. Although they are rarely exercised the court has power in extreme cases to pass a sentence of imprisonment or to transfer residence to the other parent. As from autumn 2008, the courts have been given a whole range of new powers which are intended to be used either when the court is considering making or varying a Contact Order or to ensure that contact takes place as ordered. These include:

- making a 'contact activity direction' which is designed to promote contact with a child;
- orders requiring CAFCASS, or in Wales a family proceedings officer, to monitor contact;
- warning notices;
- enforcement orders which can include provision for a parent to carry out unpaid work; and
- orders for compensation for financial loss where there has been a breach of a contact order.

There are a number of restrictions before these orders can be made and if any enforcement sanction may affect you it is important that you obtain legal advice. For information about solicitors and help with legal costs, ask for our factsheet *Getting legal help*.

For more information about matters to do with arrangements for children ask the Lone Parent Helpline (0800 018 5026) for our related factsheets:

- *Parental responsibility – rights and responsibilities of parents who live apart: information for single parents*
- *Residence – where a child normally lives: information for single parents*
- *Help with reaching agreements when a relationship ends*
- *Getting legal help*

Further help and information

One Parent Families|Gingerbread

Lone Parent Helpline: 0800 018 5026 (open Mondays to Fridays, 9.00am–5.00pm, with extended opening on Wednesdays to 8.00pm)

www.oneparentfamilies.org.uk

Free information on a range of issues including maintenance, benefits, tax credits, debt, employment, education, legal rights and holidays.

Membership: 0800 018 4318 (Mondays to Fridays, 9.00am–1.00pm)

Information about becoming a member and any One Parent Families|Gingerbread groups operating in your area.

Children's Legal Centre

Tel: 01206 873 820 (for recorded information)

Website: www.childrenslegalcentre.com

Provides information (on their website) on law relating to children, particularly contact. Also has pre-recorded telephone information on the most frequently asked questions relating to Parental Responsibility, contact and residency. Does not provide telephone advice to the public.

Citizens Advice Bureau

Check your telephone directory for your local bureau or find details on www.citizensadvice.org.uk. Their advice website – www.adviceguide.org.uk – has information on various legal issues, including divorce and the law relating to children's matters.

Community Legal Advice

Helpline: 0845 345 4345

Website: www.communitylegaladvice.org.uk

Can help you to find legal aid solicitors. Also has a 'legal aid calculator' on the website to work out if you qualify for publicly funded help with legal costs, and produces information leaflets *Divorce and Separation*, *Family Mediation* and *Living Together and Your Rights If You Separate*.

National Mediation Helpline

Tel: 0845 60 30 809

Website: www.nationalmediationhelpline.com

Can answer general enquiries relating to mediation and put callers in contact with accredited mediation providers.

ParentlinePlus

Parentline: 0808 800 2222 (open 24 hours)

Website: www.parentlineplus.org.uk

Advice and support for parents in bringing up their children.

Refuge

National Domestic Violence Helpline (run in conjunction with Women's Aid Federation England): 0808 2000 247 (open 24 hours)

Website: www.refuge.org.uk

Provides emergency accommodation, advice and support for women and children escaping domestic violence.

Relate

Appointments booking line: 0300 100 1234

Website: www.relate.org.uk

Offers a wide range of services for couples, families and individuals and supports people through all stages of their relationships, either face-to-face, on the phone or on the internet.

Resolution

Tel: 0845 758 5671

Website: www.resolution.org.uk

Association of solicitors specialising in family law who adopt a constructive, conciliatory approach to relationship break-ups. It can provide a list of local solicitor members who specialise in family law and also produces free factsheets on divorce.

Rights of Women

Advice line: 020 7251 6577

Website: www.rightsofwomen.org.uk

Free, confidential legal advice by telephone for women on a wide variety of issues. Specialist areas include family law, lesbian parenting, divorce/relationship breakdown, children/contact issues and domestic violence. Also has information sheets on legal issues affecting women to download from the website.