



Fact Sheet

Guide to the Children Act

Generally parents are the best people to make decisions about their children but sometimes disputes can arise. If a dispute cannot be resolved by mediation, then an application can be made to the Court under the Children Act 1989.

There are a range of Orders which the Court can make including:

- ◆ Parental responsibility
- ◆ Residence
- ◆ Contact
- ◆ Prohibited steps
- ◆ Specific issue

The following is an explanation of the above.

What is parental responsibility?

Parental responsibility is the set of rights, duties, and obligations which a person has regarding a child.

Who has parental responsibility?

Married parents have a joint parental responsibility: if parents are not married, only the mother has parental responsibility. However, an unmarried father can acquire parental responsibility in any one of five ways:

- (1) By entering into a "Parental Responsibility Agreement" with the mother (this must be on a prescribed printed form)
- (2) By applying to the Court for a Parental Responsibility Order
- (3) By being appointed a guardian either by the mother or the Court, although in these cases he will assume parental responsibility only on the mother's death
- (4) By obtaining a Residence Order from the Court
- (5) By marrying the mother
- (6) For children born after December 1st 2003, if the father is named on the birth certificate.

Various other people may also require parental responsibility towards the child. A Local Authority will acquire parental responsibility if a Care Order is made in relation to the child, or anyone who is granted a Residence Order in relation to the child, or even the Court if the child is made a Ward of Court.

Other Orders:

Residence Order

A Residence Order is an Order settling the arrangements to be made as to the person with whom the child is to live. A person with a Residence Order in their favour automatically acquires parental responsibility as well.

When a Residence Order has been made, two aspects of parental responsibility are automatically affected:

(1) Change of Surname

Where a Residence Order is in force, no person can cause the child to be known by a new surname without either:

- ◆ The written consent of every person who has parental responsibility
- ◆ The leave of the Court

The Court is generally reluctant to authorise a change of surname unless it is in the interests of the child to do so.

(2) Leaving the UK

Where a Residence Order is in force, no person may remove the child from the UK without either:

- ◆ The written consent of every person who has parental responsibility
- ◆ The leave of the Court.

However, the person in whose favour the Residence Order is made is able to take the child out of the UK for periods of less than one month without such consent. The parent without the Residence Order needs to seek consent every time he or she wants to take the child abroad for whatever purpose.

Contact Order

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.

A Contact Order can authorise physical contact or indirect communications such as by letter or telephone calls.

Prohibited Steps Order

Prohibited Steps Orders are like injunctions in that they prevent a person responsible for a child from doing something which would be contrary to its welfare, such as taking the child out of the country without consent.

Specific Issue Order

A Specific Issue Order determines a specific question which has arisen or which may arise in connection with any aspect of the child's welfare. For example, a Specific Issue Order can be made if there is a dispute about which surname a child should be known by. Other examples include the Order being used to decide which school a child should attend, whether a child should have a particular operation or course of treatment or the religion a child should adopt.

Who to contact for assistance

If you require any further information then please do not hesitate to contact a member of our staff for an appointment. We are members of the Solicitors Family Law Association and adopt a sensitive and conciliatory approach when dealing with family matters.

The members of our Family Team are:

Margaret Porter	-	Director and Collaborative Lawyer
Dee Finnegan	-	Legal Executive

Pellys Solicitors
Sworders Court
North Street
Bishop's Stortford
Herts CM23 2TN
Telephone 01279 758080

12 Market Walk
Saffron Walden
Essex
CB10 1JZ
Telephone 01799 514420

Suite 4
Ravenscroft House
61 Regent Street
Cambridge
CB2 1AB
Telephone 01223 654220

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