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Arrangements for children on divorce or dissolution

If a couple is to split then it follows that arrangements have to be made concerning their children:

- who will the children live with (residence)
- what contact will the non-resident parent have

Most parents are able to agree about these arrangements. A survey by the ONS (Office for National Statistics) found that around 60% agreed contact between themselves.

If we can agree what do we need to do?

One of the forms that the court requires when you start your divorce is a statement of arrangements for children. This will cover such details as:

- where they will live
- which parent they will live with
- whether the other parent will see them and how often
- their day-to-day care
- their health
- where they will go to school
- what financial support they will receive
- any special arrangements that have been made to help or protect them

If you have reached a voluntary agreement concerning these arrangements the court will not interfere unless it is in the best interests of the child.

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What if we cannot reach an agreement?

The parent starting the divorce proceedings (the petitioner) will complete the statement of arrangements for children form. The other parent (the respondent) can then agree or disagree with the statement. If they disagree they can complete their own statement of arrangements for children form and send it to the court (who will send the petitioner a copy).

The judge will then decide one of the following (*reproduced under crown copyright*):

- That he needs further information about the children. You will be told what extra information you will have to provide.

or

- That an appointment should be fixed for both parents to come and see the judge about the children. The appointment will be held in the judge's room (called 'chambers'). Normally only you, the other parent and the judge will be there.

or

- That a welfare report should be prepared about the children. A Cafcass [Children and Family Court Advisory Support Service] children and family reporter will contact the parents and make an appointment to see you both. He or she will want to talk to the children as well. The Cafcass practitioner will prepare a report and when it is ready it will be sent to the court office. The court will tell you how you can get a copy.

or

- That it would be better for the children if the arrangements you are proposing, or some other matter about them, should be in a court order. If this happens you will need to apply formally to the court.

What kind of orders can the court make?

The most common types of order are orders for financial support and 'section 8' orders.

There are different types of section 8 orders:

- 'residence orders' which say who the children should live with

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- 'contact orders' which say who the children are allowed to see, or receive letters or telephone calls from
- 'prohibited steps orders' which prevent a child's parents, or any other named person, from taking certain steps, such as taking a child abroad without first getting the court's permission
- 'specific issues orders' which set out precisely how a particular matter about the children should be handled such as their schooling.

The court can also make orders such as 'care orders' or 'emergency protection orders' where children are being abused or at risk of harm.

What should I do now?

The ONS (Office for National Statistics) survey revealed that only around 10% of parents had a court order in place. This could be because couples seeking early advice are more likely to reach a voluntary agreement if they are offered expert guidance throughout the process, not just when it goes wrong. For specialist advice please contact Tony, Rachel or Anne or visit www.gardandco.com.

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