

## **A GUIDE TO DISPUTES INVOLVING CHILDREN**

In a family dispute the focus is always on the needs of the children. Whether you are married or not, you may need advice when you split up about Parental Responsibility for your children.

These days the Courts will not interfere in your arrangements for your children unless you are unable to agree. Custody is now called Residence and Access is called Contact.

### ***What if you cannot agree?***

If you cannot agree where the children are to live then one or both parents can apply to the Court for a Residence Order. It is important to remember that this is not a "best parent" contest. The Court is only concerned with what is in the best interests of the children.

Even if you are able to agree where the children are to live, you still may not be able to agree how much time the children should spend with the other parent. Typically a Court will grant the parent who does not have the children living with them staying contact every other weekend and up to half the school holidays.

The Court can also decide other disputes such as schools, changing the children's surname and other major disputes. These are called Specific Issues and Prohibited Steps Orders.

### ***What is Parental Responsibility?***

This gives parents a legal status and a right to participate in the important decisions concerning their children.

Unmarried Fathers currently do not automatically have it. Married Fathers, like all Mothers, automatically have Parental Responsibility towards their children.

Mothers can grant Parental Responsibility to the Father by an agreement, which needs to be sent to the Principal Registry of the Family Division in London. If the Mother will not agree, then the Court can grant Parental Responsibility. In the vast majority of cases the Courts will grant Parental Responsibility on a Father's application.

### ***Going to Court***

Your Solicitor will help you to negotiate an agreement without the need to go to Court but if this proves impossible, the Courts can decide. Applications can be made to the Magistrates' Court, the County Court or the High Court. The Court charges a fee of £120. Residence and Contact applications can be expensive so they should not be issued lightly.

Once an application has been issued, a first hearing date is fixed called a Directions hearing. The application is served on the other parent and both parents must attend Court. In the Lincoln County Court a Court Officer, called a Cafcass Officer, is usually available at Court to see if he/she can help the parents reach an agreement.

If an agreement is reached, this will be the end of the Court proceedings. Even now the Court will only make an Order if it is better to do so than not. This is called the "No Order" principle.

If not, then the Court can direct both parents to make Statements in support of their case. Also a Cafcass Officer will make a report after visiting both parents and the children. The Court will fix a date for the actual hearing before a Circuit Judge.

***How long does it take?***

Contested Residence and Contact applications usually take about four to six months although many do take longer. If the case is urgent then the Court can act quickly.

It is very difficult to appeal a decision about children, although it is possible to ask the Court to vary the Order if the arrangements are not working. Always remember if you go to Court there is always a risk neither of you will like the result. It is always much better to agree if you can.