



FAMILY COURT SERVICES

CHILD ARRANGEMENT ORDER AND ENFORCEMENT

If you are in a situation where you are considering enforcing a **Child Arrangement Order**, we can help you through the process. The following post goes into a little detail of what is involved but for more information, please call 01952 410584 or contact us, via the online form

1. What is a Child Arrangement Order?

A Child Arrangements Order regulates *with whom* a child is to live, spend time or otherwise have contact with or *when* a child is to live, spend time or otherwise have contact with a person, or both. Under section 8 of the **Children Act 1989**, Child Arrangement Orders regulate contact and living arrangements concerning children.

Following parental separation, sometimes if the parties are unable to agree amicable arrangements concerning children, then applying for a Child Arrangement Order may be the only option left to a parent who wants to secure regular contact with their child.

2. How are Child Arrangement Orders Enforced?

There are a few areas you will wish to understand before going through the process of enforcing a Child Arrangement Order:

3. The Warning Notice

When making Child Arrangement Orders, the Court is required to attach a 'Warning Notice'. The purpose of this is to encourage the parties to comply with the order and warn of the consequences of failing to do so.

The Child Arrangement Order must contain the warning notice in order for an enforcement order to be made. In other words, the person who is in breach of the order must know of the existence of the warning notice. This could be by having a copy of the Child Arrangement Order with the warning notice attached or being otherwise informed.

4. Who can enforce a Child Arrangement Order?

When a parent fails to comply with the contact arrangements as prescribed in the order, a party may make a further application to the Court if they need to enforce the provisions.

You may apply for the enforcement of a Child Arrangement Order relating to contact if:

- You are the person named in the order with whom the child lives, or
- You are the person named in the order with whom the child is to have contact with

5. What the Court considers when enforcing a Child Arrangement Order

When the Court considers whether to make an enforcement order, the Court must be satisfied that making the order is necessary and proportionate to the seriousness and frequency of the party breaching the order.

The Court will consider: -

- The reasons for the non-compliance
- The effect of non-compliance on the child concerned
- The welfare checklist
- Whether advice from **CAFCASS** is required on an appropriate way of moving forward
- If the parties should attend any dispute resolution programmes

6. How are Child Arrangement Orders Enforced?

Where a Court is satisfied beyond reasonable doubt that a person has failed to comply with a Child Arrangement Order, it has the power to enforce it in a number of ways. These include:

- Referring the parties to a separated parents information program (SPIP) or mediation
- Variation of the Child Arrangement Order, which could include a more defined order or reconsideration of the child's living or contact arrangements
- An enforcement order or suspended enforcement order
- An order for compensation for financial loss
- Committal to prison
- A fine

7. Enforcing Child Arrangement Orders – Unpaid Work

The Court can impose a requirement to undertake between 40 and 200 hours unpaid work.

8. Enforcing Child Arrangement Orders – Financial Compensation

The Court may make an order requiring the person in breach to pay the applicant compensation for his financial loss if it is satisfied that a person has failed to comply with a provision of a Child Arrangement Order and the applicant has suffered financial loss because of the breach.

Applicants will often seek compensation for wasted holiday or travel costs arising due to a respondent's failure to make the child available for contact.

9. Breaching a Child Arrangement Order

The Court will take breach of an order seriously and will often impose sanctions. Therefore, if you do not intend to comply with a Child Arrangement Order you should take advice and make an application to vary the order rather than place yourself in breach and face the consequences of enforcement.

In enforcement proceedings the burden of proof is on the person in breach of the order to show they had a reasonable excuse for failing to comply and this can often be a high hurdle to overcome. In all cases it is always advisable to obtain expert opinion.

10. How Family Court Services Can Help

If you have a **Child Arrangement Order** in place and a party to that order is failing to comply with the terms then your first port of call is to try to resolve the issue privately. If this is not possible then you may wish to seek mediation or an application to court for enforcement which Family Court Services can help you with.

Contact one of the team by telephone on 01952 410584 or by via our [online form](#).

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Application related to enforcement of a child arrangements order.
Family Court Services can help guide you through the Applications process related to enforcement of a child arrangements order. You can get Guidance and a copy of all forms and leaflets from your local court or you can download copies from www.gov.uk/government/publications/form-c79-application-related-to-enforcement-of-a-child-arrangement-order

