



Child Arrangement Orders

Child arrangement orders (CAO) regulate with whom the child is to live, spend time with or otherwise have contact. Known previously as custody and access and more recently known as residence and contact.

If you and your partner have separated and you cannot agree who the child will live with then an Application for a CAO needs to be made to the Court.

If you have agreed who the child is to live with but cannot agree the amount of time with the non-resident parent an Application needs to be made to the Court for a CAO regulating contact arrangements.

Orders regulating a child's living arrangements

- Naming one person with whom the child is to live.
- Naming two people who live in the same household together as persons with whom the child is to live.
- Naming two persons who live in different households as persons with whom the child is to live. (The CAO specifies the time that the child will live in each household).

What are the benefits of having a CAO naming you as the person with whom the child is to live?

- The named person with whom a child is to live in a CAO means you have the right to take the child abroad for up to one month without consent of the other parent or permission of the Court. However it is good practice to inform the other party.
- A parent who is not named as the person who the child lives with does not have this right. If agreement is not reached with the other parent they can apply to the Court for a specific issue order to take the child abroad.

Orders regulating contact arrangements

If parents cannot agree when your child should spend time or otherwise have contact with the parent or the resident parent is unreasonably preventing contact then an Application for CAO would be made to the Court to settle the arrangements.

Types of contact under a CAO are:

- **Overnight and visiting contact arrangements** – direct contact arrangements involving the child visiting the person named in the CAO for a few hours or staying with them overnight.
- **Indirect contact arrangements** – This is where contact is by email, letter, internet, telephone or facetime.
- **Supervised and unsupervised contact arrangements** – If the Court considers there is a risk to the child's welfare through direct or indirect contact it orders contact arrangements be supervised by a third party.

When do Child Arrangements Orders come to an end?

- Contact arrangements end when the child is 16 or 18 in exceptional circumstances.
- The Court can also stipulate the duration of the Order.
- CAO end automatically if a child's parents live together for a continuous period of more than 6 months after the Order has been made.

No order principle

There is a general principle that it is preferable for matters to be resolved by consent without needing to resort to a court order. The Court will only make an order if it would be better for the child than making no order at all.

When to apply for CAO

You need to apply for a CAO if agreement cannot be reached between parents following the breakdown of your relationship. The Court expects separated parents to try to resolve disagreements about child arrangements outside of the Court system and to be flexible about child arrangements.

The following services are used to access help and support to resolve a dispute about child arrangements.

- Advice about sorting out child arrangements – *The Parent Connection*
- Information about family mediation and to find your nearest mediation service – *Family Mediation Council*
- Advice about sorting out arrangements for children and post separation mediation – *Advice now*
- Advice on separation services and options for resolving disputes – *Sorting out Separation*

Who can apply for CAO?

The following can apply for CAO:

- Child's parent, guardian or special guardian
- Child's step parent or any person who has parental responsibility for the child under a Parental Responsibility Agreement or Order.
- Any person named as the person with whom the child is to live in a CAO that is in force
- Any person in a marriage or civil partnership in relation to who the child has been treated as a child of the family.
- Any person who the child has lived with for three years. This period need not be continuous but must not have begun more than 5 years before and ended three months before the application being made.
- Any person who has the consent of each person named in a CAO that is in force, as the person with whom the child is to live.
- Any person who has the consent of the local authority where the child is in the local authority care.
- Any person who has the consent of each person with parental responsibility for the child.
- Any person who is not the child's parent or guardian who has parental responsibility for the child by being named in a CAO as the person with whom the child is to spend time or otherwise have contact.
- A local authority foster parent who has had the child living with them for one year immediately before the application is made.
- A child's relative who has had the child living with them for 1 year immediately before the application is made.

Application for Permission

A person who does not fall into any of the above categories will need to apply to the Court for permission to make a CAO.

How to Apply for Child Arrangements Orders:

- **Mediation Information and Assessment meeting (MIAM)** – Before issuing an Application an applicant must attend a MIAM and consider inviting their former partner to attend, unless the case is urgent. A mediator will attend and discuss the dispute assessing whether mediation is appropriate.
- **Application to the Court** – If mediation is not suitable or mediation breaks down an application can be made to the Court. Applications are made by completing Form C100 confirming either attendance at MIAM or giving reasons for non-attendance and lodging the same at Court.

What will the court take into consideration?

The courts paramount consideration in making any decision concerning a child is the child's welfare. The court must consider the welfare checklist whenever considering making an order under the Children Act. The checklist is:

1. The wishes of the children considered in light of their age and understanding.
2. The children's physical, emotional and educational needs.
3. The likely effect upon the children of a change in their circumstances.
4. The children's age, sex, background and any other characteristics which the court feels are relevant.
5. Any harm which the children have suffered or at risk of suffering.
6. How capable each of the parents are of meeting the children's needs.
7. What, if any, orders may be necessary.

Process after the Application has been issued:

- The case will be allocated to a Judge or Magistrates.
- The court will also refer the application to CAFCASS (Children and Family Court Advisory Support Service) who shall carry out checks on all parties by seeking information from the police and local authorities. CAFCASS will then file and serve on the parties a safeguarding letter detailing the safety checks carried out and identifying any safety issues.
- CAFCASS will telephone all parties and it is important full cooperation is given because if safeguarding information is still outstanding by the time of the first court appointment then the court shall adjourn the case until full safeguarding information is available.
- The court should not make interim orders if the safeguarding information is incomplete, unless an order is required to protect the safety of a child.

First Hearing Dispute Resolution Appointment (FHDRA)

This first hearing is to identify issues in dispute and try to resolve them as quickly and inexpensively as possible. All parties must attend; a Children & Family Court Advisor (CAFCASS) will also attend, but children should not attend. CAFCASS are there to assist the court in reaching a decision. In most cases you will be required to meet with CAFCASS to try and reach an agreement on all issues where possible or at least to narrow the issues. If agreement is reached the Court will make an Order, if no agreement is reached, the Judge will highlight the issues which remain in

dispute. It is common for the court to order both parties to prepare statements they propose to rely on. A CAFCASS officer might be ordered to prepare a report on the specific issues. The court will then either schedule a dispute resolution appointment or a final hearing.

Dispute Resolution Appointment (DRA)

These are usually scheduled if CAFCASS has been directed to produce a report to assist the Court in deciding the issues in dispute. The Court will try to resolve the issues in dispute by hearing evidence from all parties; if an agreement is reached the Court will make an Order if not, the Court will schedule the matter for a final hearing.

Final Hearing

Once all the relevant evidence has been prepared and submitted to the Court, the court will consider all the evidence and make a decision about the issues in dispute. Questions may be asked of each party, by the court and legal representatives. After hearing the evidence the court will then make an order deciding the issues in dispute and this will be legally binding.

Timescale

From the date of issue of the court application the final hearing should take approximately 6 months. However complex cases can take longer to resolve.

Costs

Generally each party will be responsible for their own legal fees as it is rare for costs orders to be made in Children Act proceedings.

Confidentiality

Documents and information relating to Children Act proceedings should not be disclosed to anyone who is not a party to the proceedings, without permission of the court.

Other types of Children Orders:-

Specific Issue Orders

These are necessary to determine a specific issue in a child's life such as which school the child should attend or whether a child's name can be changed.

Prohibited Steps Order

Such orders are necessary to protect anyone from taking action in relation to a child. For example: to prevent a person removing a child from the country.

In order to determine applications for specific issue orders or prohibited steps orders, the court would hear evidence from all parties and where appropriate direct a Cafcass report and the court procedure would be as outlined earlier in this factsheet.

For further information please contact:

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