



A survival guide to

Sorting out arrangements for your children

advicenow

Making sense of the law and your rights



Who is this guide for?

This guide is for parents who do not live together and need to make arrangements for their children. We want to help if you have just split up with your children's other parent and are having to make arrangements for the first time, or if you have been parenting apart for years but have hit a problem or now need to come up with a new plan.

Changes to legal aid mean that most people cannot get free or subsidised help from solicitors anymore. If there is evidence of domestic abuse in your relationship then this can, in some cases, mean you can get legal aid. Also, if there is evidence of your child being at risk of abuse you may be able to get legal aid.

We know that many people will not be able to afford to get a lot of, or even any, help from solicitors. This guide aims to help you to find ways to agree arrangements between you and make arrangements that work well for everybody. If you cannot come to an agreement see our guide **How to apply for a court order about the arrangements for your children without the help of a lawyer.**

If you are just in the process of splitting up this may feel impossible. When you are feeling so hurt and angry, it can be very hard to imagine a future that feels OK. It won't come right overnight, but you will get there.

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If you are going through a break up

If you are going through a break up, you are going through a very stressful time. It's hard being a parent. You may be feeling that you can't cope or you want it all to go away. Most people have days when they feel like they want to go back to being a child themselves. This makes it hard to make any decisions. Be kind to yourself.

There are a number of organisations who offer support and help for adults and children when they are dealing with family difficulties. See **More help and advice** on **page 31**.

Things you can do to help the children

- Keep explaining to the children that this is between the adults. It is not their fault. And that you know that this is hard for them and you are sorry.
- Tell them repeatedly that you both still love them and you will always be their family.
- It's easier said than done, but try not to blame the other parent or talk about them in an unhelpful way in front of your children. Find other ways to blow off steam.
- Give loads of extra cuddles.
- Let the children's schools and anyone else who looks after them know – they are likely to need a bit of extra care and attention from everybody for a bit.

“ Alex’s story



Mel and I split up after 8 years. We have two small girls together. We had agreed that I’d pick them up from school one night a week and give them their tea and they would stay with me overnight on Saturdays. It was really hard to start with. When I went to pick them up they would cry, or say they didn’t want to come, and when they did get to my flat they said they wanted to go home, they wanted mum. It made me really sad. And I blamed Mel. And when it happened for the third or fourth time, I’m ashamed to say I shouted at them and went home by myself.

My mum pointed out that it didn’t sound like I’d helped the situation. And that the girls were probably feeling really sad and confused. I realised I hadn’t really thought about how they were feeling. I sent Mel a text saying I was really sorry and that I realised I’d been a bit of an idiot. Mel sent me a reply saying the girls have been crying a lot with her too, and asking for me. We realised we needed to come up with a plan to reassure and comfort them, and to take it slowly at first.

If there has been domestic abuse or if the children have been harmed

You may be entitled to free or subsidised legal help from a family law solicitor - you can check by using the legal aid calculator (www.gov.uk/check-legal-aid). If you are entitled, look for a family law solicitor who can take legal aid cases. You can search for a family law solicitor who does legal aid here <https://find-legal-advice.justice.gov.uk>

If there has been violence or other forms of abuse between you, it may well not be a good idea for you to try and sort things out between yourselves.

It is best to start by getting some help from a good family law solicitor. You can find one on the Resolution website: www.resolution.org.uk/findamember

They will be able to help you work out what the best thing for you to do is, and if you can do it yourself or if you will need legal help. Don’t be afraid to phone around and compare prices or see who gives free first appointments.

If you have to take an issue to court, and you have evidence that you have suffered domestic abuse, you will not have to show that you have first looked at using a family mediation service.

What do you need to sort out?

What do you need to sort out?

There are three major things to sort out.

1

Where the children will live.

2

When and how you will ensure they have time with both parents.

3

How you will continue to pay for all the things they need.

There are no set answers to these questions. You have to decide between you what will be best for your children and for you both.

Sometimes where the children will live and with who is obvious to you both, but often this is a really hard decision. The most important thing is for you both to be clear that you are making the decision based on what is right for your children at this point in their lives, rather than trying to make things fair between the two of you.

You may be thinking of an arrangement where the children live part of the week with one of you and the rest of the week with the other. This is often called 'shared care' and it can be very successful. Be aware though that if you are thinking that it is only 'fair' if your children live half of the week with each of you, you may accidentally be putting your needs ahead of theirs.

Shared care arrangements seem to be most successful where parents live near each other, both have enough space at home and time (or money) to spend on childcare, and when they can be co-operative and communicate well on day to day issues (for example, whether



your child's PE kit/French textbook etc is in the right home when needed). It is also important to have clear agreements about who is responsible for what (for example, who will be responsible for healthcare appointments, making sure their shoes still fit, etc).

For many families, it may be best for the children to live with one parent most or all of the time, and see their other parent regularly. It is important for children and teenagers to have clear, regular arrangements in place to see the parent they don't live with and for both parents to stick with what is agreed.

You may need to think about:

- how much stability your children need at their age and with their personalities,
- who will have the most time for parenting (and on what days),
- where there is enough space,
- how they would get to and from school, their friends' houses, etc.
- If you have more than one child, will it be important to them that they both do the same thing (for example, both go to stay with Dad on a Sunday night), or would they enjoy the opportunity to get one of you to themselves sometimes.

If your children are a bit older, it is usually a good idea to discuss the options with them. Don't ask them to choose where they live though – that is likely to make them feel like they have to choose between you. Making a decision that is genuinely in their best interests takes a great deal of maturity – it's hard enough for the adults.

It's a very good idea to agree what the rules are and make sure they are the same at each house. For example, for teenagers you might agree when bedtime is, how late they can stay out with their friends, how long can they spend on the computer, will homework be checked, how much pocket money will they get (and who will give it to them). This prevents them from playing you off against each other, and means you don't have to worry that it's more fun with their other parent.

Bear in mind whatever arrangements you come to are unlikely to last forever. Most people need to reorganise things a few times as the children get older to accommodate their social lives or new clubs they want to join. Or there may be changes for you the adults, perhaps because of a new job or changes to your home life.

If your child spends more time with the other parent, it doesn't mean you are less of a parent or have less of a say in important decisions about them. This is because most parents have something called 'Parental Responsibility'. This is a legal term for all the rights and duties a parent has towards a child. It means you should be consulted about important things like which school they should go to, or decisions concerning your child's health. (It does not give either parent the right to interfere unreasonably or unnecessarily in care arrangements put in place by one parent.)

Do I have Parental Responsibility?

All mums have Parental Responsibility. All dads who are married to the mum or have been mentioned on a birth certificate issued after 1st December 2003 have Parental Responsibility. If you have adopted your child, have a residence order (this will be an order made before April 2014), or a Child Arrangements Order that says your child lives with you, you have Parental Responsibility. If you are a Second female parent and your child was conceived on or after 6th April 2009 and you were on the birth certificate you will have Parental Responsibility. Or, you have Parental Responsibility if you have formed a Civil Partnership with the child's biological mother.

If you don't have automatic Parental Responsibility, you can get it by making and signing a parental responsibility agreement or by applying to the court for an order. See our step by step guide **How to apply for parental responsibility without the help of a lawyer.**

What do you need to sort out?

What do you need to sort out?

You can find a parenting plan to help you and your ex work out arrangements for your children at www.cafcass.gov.uk. Just search for 'parenting plan'.

You can use the parenting plan online or have a copy sent in the post or print off your own version.

A parenting plan can help you both to work out what is important in the care of your child, and how you will agree arrangements about small everyday things and big important decisions.

How will you both pay for all the stuff they need?

Once you have worked out where the children will be living, you need to work out how you are both going to continue to pay for everything the child needs. All parents have a duty to pay for the things their children need until they are 16, or up until they are 20 if they are still doing their A levels or equivalent study or training. This is usually called child maintenance or child support.

Again, it's usually best to try and come to an agreement between yourselves. You could agree that the parent who the children won't be living with (or who will have them staying for less time each week), pays the other a certain amount of money each week or month. Or you could agree that they will pay bills or buy particular things the child needs instead. If the child will be living with each of you equally, how will you divide the cost of things like clothes, shoes, school lunches, pocket money, travel, and after school or weekend activities?

If you are struggling to make your own agreement, it might be useful to see how much the government would make you pay. There is a calculator on the Child Maintenance options website: www.cmoptions.org/en/calculator/calculator.asp

Talking to the children about arrangements

- Make it clear to your children that you want to help them to keep a loving and close relationship with both of you and they will never be asked to choose between you.
- Make it clear that you are the adults and you will make the decisions, but that you want their help to think about how things would feel for them.
- Listen to any suggestions they make. Even if you can immediately think of 10 reasons why it's a bad idea, resist the impulse to say so. Instead let them see you are giving it some serious thought.

If you still cannot agree you could use the Child Maintenance Service. They will contact the other parent and work out what they should pay. If the other parent doesn't pay, the Child Maintenance Service can make them pay. However both parents have to pay a charge for this service. Also beware it can take a long time for things to get sorted out using this service.

If you would like some help and advice to work out the best way to arrange it for you – you could call the Child Maintenance Options helpline. Gingerbread's helpline and website can also help you deal with a whole host of child maintenance issues (see **More help and advice** on **page 31**).

What the law says

Although it is best to try and reach agreed solutions without needing to go to court if you can, it is important to know how the court looks at these decisions.

The law says that courts should not make court orders about children, unless it is clearly better for the child if they do. This is why courts will encourage parents to work out solutions themselves if it is possible. Before applying to court almost everyone will need to try mediation to come to an agreement first. (In certain circumstances you can claim an exemption which means you don't have to try mediation). You can find out more about mediation in our guide **A survival guide to using family mediation after a break up**.

When the courts are asked to make a decision about the children the first consideration is what is best for the child, rather than what either of the parents want.

The starting point is always that it is important for children to have a good relationship with both parents, which includes spending time with both parents (unless that would not be safe). It doesn't matter if one parent does not give any money to support the child.



What the law says

They also consider:

- The child's wishes and feelings (bearing in mind age and understanding). In practice, this means that once children get to their teens, or perhaps a little earlier, their wishes count for a lot. (This doesn't mean that the court automatically does what the child wants. But the court does take their views and wishes into account when deciding what is best for them.)
- Their physical, emotional and educational needs.
- The likely effect on the child of any change of circumstances.
- The child's age, sex, background and any other relevant characteristics.
- Any harm or risk of harm to the child.
- Ability of the parents to give the child what they need.

How are you going to sort everything out?

The options available to you on how to try and come to an agreement are:

1

reaching an agreement between yourselves, or

2

using a family mediation service, or

3

using solicitors to negotiate on your behalf, or

4

applying to the court if you can't reach an agreement.

You might find that you can agree some things between yourselves but that mediation or a solicitor could help sort out some trickier issues.

Going to court should usually be the last resort. It can often cause relationships to be permanently damaged, and leave the adults involved hurt, stressed, and poorer. The money, time, and energy you would spend on going to court would usually be better spent making your children's lives and your own more comfortable. And if you can't afford legal advice the whole process is likely to be daunting and difficult. Children can often be upset too, even if you are careful not to involve them directly.

Whichever method you use, it is important to remember that you will both need to compromise.

Option 1

Agreeing it yourselves

Agreeing arrangements between yourselves can be the best option for many people. But if you feel that your ex is better at arguing his or her corner than you are and you are worried about trying to reach agreement alone then you should see if you can afford mediation or the help of a solicitor. A solicitor will advise you on what the court would consider a reasonable arrangement and help you think about things you may not have thought of yourself.

If you have experienced any kind of domestic abuse during or after the relationship with your ex it would be very sensible to find out if you can get free legal help from a family law solicitor so that you don't have to deal with your ex.

If you can agree things between you it won't cost you much or even anything in terms of money. Often arrangements that you can both agree to will work better than those that are forced on you (for example by the court.) If you have young children you will need to parent them together for years to come. So if you can get off to a good start at the beginning by talking about the issues, this is likely to help everyone now and in the future.

If you have recently split up or if you have a lot of history together, you will need to find ways to discuss this without all your emotions getting in the way. This might be to meet to discuss just this, perhaps in neutral territory. Some people manage to do it over email.

How are you going to sort them out?

- Agree in advance with the other parent how and when you will try to come to agreements. For example, will you find a date to meet on neutral territory, do it over email, or will you use a family mediation service? Nobody likes to feel ambushed and you have a much better chance of agreeing something if you both arrive at it feeling that you have chosen this approach and you want it to succeed.
- If you have a lot to discuss try and agree what is urgent and deal with that first. You may have different priorities, but dealing first with the things that are most worrying for each of you can make things go much more smoothly. If you have to discuss arrangements for the children and finances consider dealing with them separately – maybe at separate meetings. Do not feel that everything needs to be resolved immediately.
- Before you discuss it, think about what you want to agree. What is best for the children? And then work out what you would like and where you can be flexible. If you know what their other parent might feel about that, think if there's anything you can do to make it more appealing for them.
- Try to stick to the point as much as you can. If you are meeting in person, having the main points written down on a piece of paper can be helpful and can give you something to focus on if you feel yourself starting to get upset or angry, or if your ex-partner strays from the point. If you try to do it over email, do bear in mind that it is even easier to take offence when you can't see expressions or hear tone of voice, so keeping yourself calm and sticking to the point is even more important.



Option 2 Using Family Mediation

This is where you meet together with the other parent and a mediator, who has been properly trained to help you put your feelings aside and focus on the issues that need to be sorted out. The mediator won't take sides or decide what is fair for you – they are simply there to help your discussions.

Mediation is not a terribly cheap option but if it works well it can be money well spent. It can give you a calm setting where you are encouraged to listen to each other, and help get you a written agreement to move forward. Many people say that a positive side-effect of mediation is that it helps them to communicate again, which – given that you are going to continue to be your children's parents forever – can only be a good thing.

Legal aid is still available for mediation so ask if you qualify. If you do not qualify you will have to pay for family mediation. Prices start at around £80 each for each session and most people come to the agreements they need for their children in 1–3 sessions. (If you are splitting up, you could use family mediation to sort out all your issues, in which case expect it to take 3–4 sessions). When you are looking for a mediator, don't be afraid to phone around and compare prices.

How are you going to sort them out?

(Whilst the fees are usually charged per person, it is open to you and the other parent to decide who will actually pay or how the cost will be shared – for example where one of you has a higher income.)

If you are entitled to legal aid (that is help from the government to pay for legal advice) you can get mediation for free. You can check if you are by using the legal aid calculator – www.gov.uk/check-legal-aid

For more information about Family Mediation and how to find a good mediator, see our guide **A survival guide to using family mediation after a break up.**

If you have experienced any kind of domestic abuse during or after your relationship with your ex then mediation usually will not be right for you. A trained mediator can talk to you about this. Mediation must be voluntary. You should not be bullied into going or bullied by your ex when you are there.



Option 3

Using Solicitors to negotiate for you

If there has been domestic abuse in your relationship having a solicitor on your side to advise you should help a lot. Make sure you look into whether or not you can get legal aid. You can check if you are likely to qualify for legal aid here www.gov.uk/check-legal-aid

If you cannot get legal aid, using a solicitor can be quite a bit more expensive than mediation. But it can still be relatively quick and can avoid all the expense and stress of going to court. If you have to sort out issues around money or property, it can feel a lot safer to have an expert on your side, making your case for you. You can find a good family law solicitor who believes in a constructive, non-confrontational approach on Resolution's website: www.resolution.org.uk/findamember. Don't be afraid to phone around and compare prices. A solicitor will be able to advise you on your rights and how the court would look at your situation. A solicitor will also help you think through important things you may not have thought about.

If you are entitled to legal aid (that is help from the government to pay for legal advice) it will be much cheaper or even free. You can check if you can get legal aid here: www.gov.uk/check-legal-aid

If you can't get legal aid, some solicitors will do one off bits of work that they charge a set amount of money for. You might find that one meeting with a solicitor to give you some initial advice and guidance will be money well spent. Make sure you call around and compare prices for similar services offered by different firms.

How are you going to sort them out?

What to do when you have reached an agreement

If you have managed to come to an agreement, well done! You don't have to put it in writing but it is a good idea as it will help you avoid confusion or disagreement later on. Consider including in your agreement an agreement about how you might address issues that may arise in the future – for example, by talking to each other and if that doesn't resolve the issue, by using mediation.



What to do
when
you have
reached an
agreement

What if we can't agree...?

There are only really five reasons to take arrangements for children to court. They are:

- 1 If you have real worries about your child's safety or welfare with the other parent.
- 2 If one of you feels unsafe or intimidated.
- 3 If one of you has been preventing the other parent from seeing the child. Courts now have powers to enforce court orders about this.
- 4 Maybe you haven't been able to get a suitable response from your partner. Sometimes a court application can help to get a discussion going. Often the court process will stop after the first appointment, as an agreement can be reached.
- 5 The parent with care of the children has moved and cannot be located or is about to move away. The court can assist in finding and then contacting the other parent if they are within England & Wales. If you are concerned that they may be moving outside of the country you need to consider seeking urgent legal advice.

If your situation isn't this bad, it is probably best to consider trying again – perhaps using another method like family mediation or solicitors to negotiate on your behalf.

Sometimes people think they want to go to court for the wrong reasons. Maybe you don't want to compromise and think the court will give you everything you want. But this is very unlikely – courts don't side with one person or another but try to find a solution that is right for the child or children. Often, deep down, people hope the court will 'reward' them or 'punish' the other parent for their past behaviour. If this is what you want, you will be disappointed.

Parents also sometimes want to take their dispute to court because they think fighting every step of the way will show the children how much they love them. But going to court really isn't the best way of doing that. Making compromises to ensure the new situation will give the children what they need, even where that is painful for you, is much more likely to be effective.

Before you think of taking it any further – now is the time to get some legal advice. They will be able to help you work out if going to court is a good idea. Some of the organisations on the **More help and advice** page can give you advice or you can find a good family law solicitor on Resolution's website: www.resolution.org.uk/findamember.

What if we can't agree...?

Another option is to speak to a barrister who is qualified to represent members of the public directly (without a solicitor being involved). There are limits on what a barrister can do outside of representation at court but it is often a cheaper option if you just want to get some advice rather than having a solicitor to negotiate on your behalf. The details of appropriately

qualified barristers and an explanation of the way the system works can be found at www.directaccessportal.co.uk. Don't be afraid to phone around to compare prices or see if you can find someone who will give you the first appointment for free.

Reasons to avoid going to court if you can

- If you use a solicitor to advise you and a solicitor or barrister at court to represent you it will become very expensive very quickly.
- If you cannot afford to use a lawyer it will be daunting and difficult to represent yourself at court.
- Without a lawyer you may not get such a good outcome at court.
- It will probably make it harder to have a relationship as parents afterwards. To make your case both of you will emphasise and even exaggerate your positions. After that, it can be hard to get back to a co-operative relationship as parents.
- It will be very stressful and the children may feel stressed too.
- The process will probably feel out of your control. Once a case has got going people often feel a bit powerless. The court has the power to make various different orders as long as those orders are in the best interests of your child as the court sees it. You may not agree.

What if we can't agree...?

If you have to go to court

The family court can decide who the children live with and how and when they see the other adults in their life. These orders are called child arrangements orders. The court can also make orders about specific issues (for example, if you cannot agree about where they are going to go to school or whether the child should have an operation) and things that parents may not do, like take the child abroad (a 'prohibited steps' order).

We have produced a separate guide – **How to apply for a court order about the arrangements for your children without the help of a lawyer** to help you if you end up applying to court. But, we have provided an overview here to give you an idea of what will happen.

Before you can go to court you will need to show that you have been to a Mediation Information and Assessment Meeting to explore whether you could come to an agreement through mediation instead. This is because the court will only make orders where you can't sort the matter yourselves, either on your own or using a mediation service. In certain circumstances you may be exempt from going to a Mediation Information and Assessment meeting with your ex. For more information on this see our guide **A survival guide to using family mediation after a break up**.

If you have not been able to reach an agreement yourself or with the help of a mediator or solicitor, then the next step is to issue a court application. This can be done by completing C100 form outlining what order you are asking the court to make and why. If you want to tell the court about any abuse within the relationship or towards the children there is a second form called a C1A to fill in too.



There is a fee of £215. If you are on a low income you may be able to ask the court for help with paying this fee so that you only pay some of it. For more information on this see our know-how **Getting help to pay a court fee in a civil or family case**.

Some courts have a Public Support Unit (PSU). Volunteers at your local PSU can help you complete and submit your forms to the court. At a later date they can offer guidance about how the court works and give moral support at your court hearing. They cannot give legal advice. You can find the nearest PSU to you here: www.thepsu.org

If you have to go to court

Once you have applied to the court, it will generally fix a first hearing (you may hear this called a First Hearing Dispute Resolution Appointment). Before the hearing you and the other parent should be contacted by Cafcass so that they can check if there are any particular issues that the court may need to be aware of. This will include checks with social services and criminal records. If you have a criminal record the court will only be concerned about offences it considers are relevant to the child. If there is anything you are worried about in terms of your child's safety or wellbeing, it is really important to tell the Cafcass officer when they call. It is sensible to make a list of the things you might want to tell the Cafcass officer so you don't forget something important.

The first hearing is used by the judge to explore the issues and find out whether there is some scope for agreement. The judge may ask a Cafcass Officer (also known as a family court advisor) to help with this. A large number of cases get sorted out at this stage, and often there is no need for an actual order, though the judge will generally record the agreement.

If you can't agree at this stage, the judge will set out the timetable for what will happen next. The Judge may refer both of you to consider mediation, if this has not been fully explored previously. He or she could order that a different Cafcass Officer investigates and writes a report. If the family has been known to social services it may be that the Local Authority is asked to undertake the investigation. The Cafcass Officer will then arrange to see all the adults and the children involved; sometimes he or she will also speak to teachers and other adults who know the children.

The preparation of this report could take between 12–15 weeks and therefore the case would be adjourned and another hearing date be given. The judge will use the report to help him/her make a decision on what is best for the children at the next hearing. This hearing is called a Dispute Resolution Hearing or DRA.

The judge can order that both parents attend what is known as the Separated Parents Information Programme. This is a short course of around 4 hours (either on one day or split over two days) where both parents attend and learn about how to parent better whilst separating. Parents do not attend on the same day.

**If you have
to go to
court**

Making your new arrangements work for you

We asked people who had sorted out arrangements for their children what advice they would give to other people.

“ I think it's best not to show the kids how angry you are with your ex. The best advice I was given was to write it down when I was angry or frustrated with him so I didn't dump it on the kids and they didn't have to see me banging pots and pans or stamping round the house after he'd called.

Jane ”

“ You've both got to be flexible; you won't generally know about things like their friends' birthday parties a long way in advance. To start with I felt like seeing me should come above everything else – but then I realised it wasn't fair for them to miss out. So we both try and be flexible and swap things about. Some weeks I don't see them as much as I'd like to, but there's always next week.

Paul ”

“ When we were working out when we'd each see the children, we also agreed what the routine and rules were, and made sure they were the same at both homes. It meant neither of us got paranoid that they liked it more at one place or another. It was particularly helpful when our daughter started trying to play us off against each other.

Flic ”

“ I realised how confused I would be if I never knew where I was going after school. We made a chart for both our flats to show what was happening each day and discussed it at breakfast each morning.

Dev ”



Making your new arrangements work for you



“ The handovers are really hard at first. We could barely look at each other. But I tried hard to be nice about it. And it helped Amy, my daughter, that we could speak to each other, and I could come to the door.

Sarah ”

“ I used to ask my boys what they'd done when they came home from seeing their dad but they always seemed really defensive – like I'd be hurt if they'd had fun. So I changed tack. I asked their Dad what they'd done and showed great enthusiasm at his replies. Very soon they were proudly bringing home stories, pictures, even some biscuits they'd made.

Theresa ”

“

I do a share of the ferrying the girls around even when it's not 'my time' to see them. It makes things easier for everyone and it's nice to see them even if it's only for 15 minutes in the car. They tell me all about what's going on at school or what happened at swimming that they never mention at the weekend.

Ciro ”



“ I made the mistake at first of always trying to take the children out for a treat. I wanted it to be special. But actually it was a bit much for them and for me. They like being at home or in the park too – just us being together.

Steve ”

Making your new arrangements work for you

“

Children have their own lives too. It took us a while to strike the right balance between ensuring we have enough time together and making sure the children still get to do the things they want to – like going to football and seeing their friends.

Jon

”



“

It really bugged me when their dad didn't bring them back on time. Or when he was late turning up and they were all ready in their coats. But now he just texts me if he's running late, and it's okay.

Neelam

”

“

I think the boys used to be too scared to mention their Dad to me or me to him. I realised this was stressful and weird for them so started to find ways to mention their Dad and his new partner without asking them anything. It felt weird at first but it did the job. They don't feel they can't talk about stuff anymore.

Kas

”

“

The children used to come back from weekends with Mark all hyper and tearful. I was really worried about it. But my sister said her kids were like that anyway if they'd been out for the day, and I realised she was right. I talked to Mark about it and he agreed to try to get them to chill a bit for the last hour or so.

Kath

”

“

Children know when you're trying to buy their love. And they exploit it! We found that they were playing us off against each other a bit, and we fell for it and started to buy bigger and bigger presents for them. Now we email each other to agree what we'll each do for xmas and birthdays.

Tim

”



Making your new arrangements work for you

Common problems

Your child says they want to live with their other parent

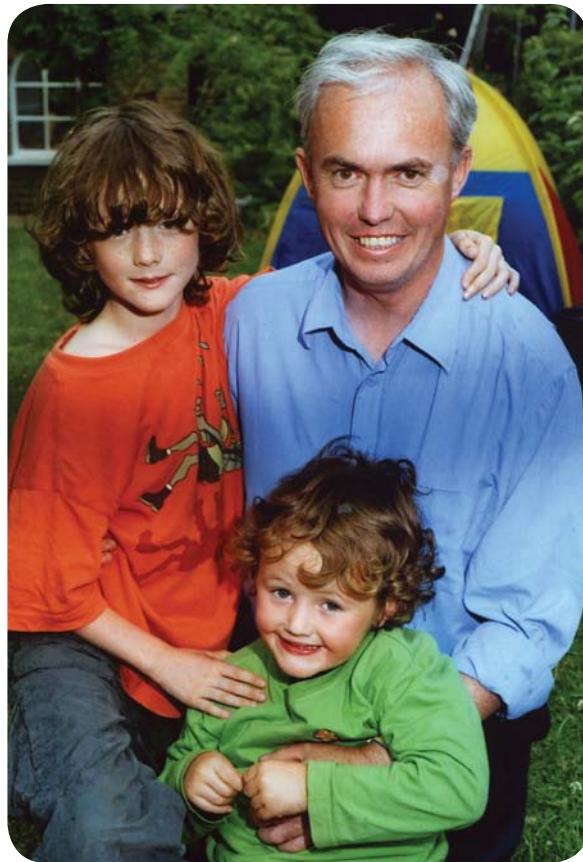
This is very hard to deal with. If you are the parent that has been looking after them up to now, this will usually feel horrible. The first thing you need to do is try to deal with your feelings about it. Remember this happens at some stage in many families. It's human nature to wonder if the grass is greener. It isn't a reflection of any failing on your part. In fact, it's more likely to be a reflection of your success in enabling your child to maintain a good relationship with their other parent.

Once you've got your feelings a bit under control, you need to deal with two things: your child's feelings and wishes about it and then whether it's actually a good idea.

Agreeing a change in where your child lives will, in most cases, be a really big decision which you need to think about carefully.

How old your child is and how mature he or she is will have a big impact on whether a move to live with the other parent is a good idea. You might feel that a move would benefit your child and so it may be something you can agree to. But, you might be very concerned about it.

It is helpful to know how the court tends to deal with this sort of situation. The court's view is that change is usually disruptive for children and should be avoided. If your child is young and there are no worries about the care you are giving your child the court would usually say your child should stay with you. If your child is older, say 11 years old or more then the wishes and feelings of your child will be listened to more.



Your child may feel guilty for saying they want to move and that's probably not helpful. If you can, it will be helpful to tell them you understand. You might think there are lots of reasons why it's a bad idea, but it's important to show your child that you are listening to them and considering it. Discussing it calmly will also help you work out if this is just a whim or something they have been thinking about more seriously.

Try and have a chat with your child and make a list of the reasons they want to move. Then, together, you could look at all the possible solutions. This might include increasing the amount of time they spend with their other parent, or changing how things work with you, as well as going to live with their other parent.

Common problems

If you have a good relationship with their other parent you could do this all together. If you don't, it might be best for one of you to have this conversation with the child and then contact the other to discuss it. In this case, be careful not to agree anything with the child until you have discussed it with the other parent – instead just explore possibilities.

One way to do it is to approach it again as if you are making the decision for the first time. Just like then, your priority is to make sure your child gets appropriate care. If you are struggling to come to a new agreement a family mediation service may be able to help. If you feel pressurised by the other parent to agree to your child going to live with them and you don't think it is the right move for your child, it is important to try and get legal advice from a family law solicitor about what to do before agreeing to anything.

If you do decide that the child will be properly cared for by their other parent and the move won't be too disruptive, consider making a sort of contract between both parents and the child. A written agreement can be a helpful way to give you both a good understanding of your discussions and could be a clear document to go back to if there is any disagreement between you. This might say that the child will live with the other parent for a trial period (say 6 months or a year), when they would visit or stay overnight with you, what will happen in the holidays, and when they'll speak on the phone etc. It can also be helpful to include that the important rules for the child will remain the same and specify what they are. You should also agree what would happen if they change their mind and make it clear that it is ok for them to do that.

Any agreement you reach between yourselves can be helpful but it is not legal binding so either one of you can change your mind about the arrangements at any time.

If you do agree to your child moving to live with their other parent be aware that it could be very difficult to arrange for your child to return to live with you once they are settled there. You may decide that you are not happy with the new arrangement. Unless the other parent agrees for your child to come back to your care then you may find you are stuck. There may be no option other than applying to the court to ask for an child arrangements order that your child come back to live with you. The court will want to avoid more disruption for the child and so unless there are serious welfare concerns about your child being mainly in the care of their other parent the court is unlikely to agree to your child moving again.



If your child is over 11 or 12 their wishes would be taken into account if it was taken to court (although that doesn't mean they would automatically get what they say they want). Bear in mind that it is unusual for the court to make child arrangement orders about children over the age of 12 or 13 unless the child expresses agreement to the arrangements. This is because the court takes the view that the order wouldn't be work for a child who is that old who didn't agree with the arrangements.

Your child lives with the other parent and now says they want to come to live with you

When this happens it can feel really nice. It's very flattering to think they would prefer to live with you. But try not to see this as winning or a reason to start having another epic battle with your ex. You need to think about whether this is really the right thing for both you and the child.

The first thing is to ask them why they would like to live with you. Before you take it seriously you need to be sure that it is for good reasons. If they mainly see you on weekends or holidays, they may think it will always be like it is at weekends if they live with you. But they will still have to go to school, and do their homework, and go to bed at a reasonable time if they lived with you during the week. You will sometimes get tired and cross with them or have to lay down the law just like their other parent. Or it may be that there are issues in the other parent's home that the child wants addressed and this is their way of bringing them up.

If the child has good reasons, you need to work out if and how you can provide all the things that your son/daughter needs as well as the parent they are living with now. Would they be able to stay at the same school and clubs? If not, would they be willing to move? Children do not always think through all of the consequences of what they wish for.

You also need to work out if you really want to take this step – if it is not right for you, perhaps because of other factors in your life, then it may fail and cause more harm than good. If you do want to take this forward, it is best to approach it as delicately and co-operatively as you can. Contact the other parent and see if you can work together to come to a solution.



It may be that the best option is just to change things a bit as that would avoid the disruption of the child having to get used to a new home and family life.

If your child would just like to spend more time with you, would it be better to change the arrangements so they see you more often, or stay over for longer? While a shared care arrangement might not have been best to start with, are they big enough for it to work better now (**see page 6**)? Or would it really be best if they moved to live with you?

Many families who have been through this have found it useful to draw up a sort of contract between the two parents and the child. This might say that the child will live with the other parent for a trial period (say 6 months or a year), when they would visit or stay overnight with the parent they won't be living with, what will happen in the holidays, and when they will speak on the phone etc. It can also be really helpful if it includes that the rules for the child/teenager will remain the same and specifies what they are. You should also agree what would happen if they change their mind.

Common problems

Any agreement you reach between yourselves can be helpful but it is not legally binding so either one of you can change your mind about the arrangements at any time.

If you can come to an agreement, you don't need to go to court, even if there is a court order that said the child should live with the other parent. You only need to involve the courts when you cannot agree.

If it isn't going to be possible to work together to come to a decision on this, even with help like family mediation, then you need to think about whether you should apply to court for a child arrangements order. If your child is under 12 or 13 years old then the court is unlikely to decide that they should live with you just based on what your child says they want, if there are no reasons to be concerned about the care they are receiving from their other parent. This is because the court considers that change is disruptive which is not good for children.

Your child doesn't want to see their other parent

It can be tempting to take children's unwillingness to see their other parent at face value. They may be upset or distressed at the idea and your instinct as a loving parent is often to support them in their decision and help them solve their problem. But children's feelings about seeing the parent they don't live with are rarely simple. They are often complicated by feelings of loyalty to you, or feelings of sadness and hurt at the end of your relationship that they can't move through. Children often use avoidance of the other parent to avoid dealing with difficult emotions so if you can, you need to try to help them address these feelings.



Find out what the problem is: maybe it's something that can be solved. Sometimes it is something as simple as not being allowed to take possessions from one home to the other, having different rules, or (for small children) there being something in the other home that for some reason frightens them. Or sometimes, particularly if you have recently split up, it's because the arrangements are asking them to get used to a lot at once. Maybe they don't want to stay the night yet – to start with you could just do short visits, or maybe there's someone else they're not ready to see (a new partner, or other family member for example). Or maybe, they are finding the awkwardness between you and their other parent as you hand them over just too painful.

If the only answer you are getting is along the lines of "I just don't want to" then you may have to leave it for now, but continue to be aware it may be that they are trying to please you. You should aim to make it as easy as possible for your child to change their mind.

Discuss it with their other parent. Make sure that they understand that you are trying to help the situation. If you can, agree a plan to try to deal with it. That could include things like:

- Reminding the child that you split up because your relationship had stopped being happy – it wasn't that either of you stopped loving them or being a good parent.
- Both of you trying to make sure you don't talk disparagingly about each other, in fact try to consciously talk each other up.
- Find other ways for their other parent to stay in touch in the mean time – emails, texts, phone calls, short visits or perhaps things like giving them a lift to football/ballet/Brownies etc.
- Look out for a problem that their other parent might be able to help them with – perhaps homework, mending their bike or a broken toy – anything that might give their other parent a useful role.
- Maybe it would help them to speak to someone else – another member of the family, a family friend or a professional.

Remember that the law says as long as your child is safe when they are with their other parent, they should see them regularly. So, you need to do all you can to encourage your child to see their other parent, unless you are worried that your child is coming to some kind of harm there. Encouraging your child to see the other parent, includes talking positively to them about the other parent and making sure your child ready at the time agreed for contact. If your child is older, say around aged 11 or older, then the court will pay more attention to your child's views when deciding how to deal with this problem.

Your child doesn't want to come to see you

This is usually really painful and to make matters worse it feels completely out of your control. It's often tempting to blame their other parent – particularly if you had an acrimonious break up. But this isn't a helpful road to go down. It's possible that your children are saying they don't want to come out of loyalty to their other parent, but that doesn't mean that their other parent planned it, caused it, or had any conscious role in it. Even if their other parent may not have been blameless, you are unlikely to help the situation by berating him or her and may only end up upsetting the children and making it harder for them to change their mind.

Is it possible that the child is feeling hurt and angry with you? Sometimes children may have witnessed unappealing or even frightening scenes during a break up which may have made them uncomfortable and confused. If it is possible, apologise for them. Remind them that everybody does silly things when they are angry or feeling really sad.

Or it might be a much simpler problem – for example, maybe they want to do something else on that day.

- Try to talk/write to your ex about it calmly. Do not accuse him/her of turning them against you. Ask for his/her help in solving the problem. Make it clear that you are willing to be flexible if it makes things easier for the child. For example, if it's that the child is anxious about staying the night or missing the other parent, you could start by just seeing them for a few hours until you have all got used to it. If they don't like something else, it can be changed.



Common problems

- It's probably not a good idea to ask the other parent to force the child to see you. Instead ask them to help you talk to the child about why they don't want to. It's very hard to force even a small child to do anything against their wishes, and it certainly isn't going to make for an enjoyable day.
- Could you ask the other parent to find ways of talking about you positively?
- See if you can find methods of communicating directly with the children that will show them that you love them and are thinking of them, without putting pressure on them to change their mind. Perhaps email, postcards, quick texts, phone calls, computer games you can play together over the internet, anything that might suit your child.
- Remind them that you split up with their father/mother because the adult relationship was unhappy, not because you didn't love them.
- It never hurts to tell them you love them and think they are amazing and you always will.

The other parent really is blocking you from seeing your child

This is awful. In this situation people tend to feel incredibly frustrated and angry, and rightly so. People tend to want to take the other parent to court, and this does sometimes help but it's far from the magic cure you would hope for. Again, it's best used only as a last resort.

If you are not getting to see your child in the way you did before think about ways you can try to stay in touch while sorting out the problem. For example, you might be able to call, skype or FaceTime your child. If your ex won't agree to this, think about sending short letters or cards



regularly or passing them on to another family member to give to your child. The occasional small gift, like a magazine, will remind your child you are thinking about him or her.

If you haven't already tried it, it might be best to approach the other parent as if you don't think the problem is them. Write or speak to them asking for the help as described above.

Another option is to see if the other parent will consider using a mediation service. Some services specifically work with children so the child can really have a say. A trained mediator can see a child in private and feed back to parents what the child wants to say to them. See our guide **A survival guide to using family mediation after a break up** for more information on how to find a good mediator.

Many people report that, as well as sorting out particular issues, mediation helped them to find new common ground and work as co-parents again. It is worth remembering that the court requires you to try mediation before you apply for an order unless an exemption applies. See our guide **A survival guide to using family mediation after a break up** for more information on this.

If none of these options help, you should go to court. See **If you have to go to court** on **page 16**.

The other parent won't see them

This is a sad and tricky situation. Your priority of course is to make sure this hurts the children and their self-image and self-esteem as little as possible. It's going to be hard, but try not to show the children how angry this makes you. Even if you think it's because they don't care or they don't have their priorities right – it is best not to say it. It is best not to say or do anything that may close your child off from the possibility of contact. Instead, make it as clear as you can that it isn't because of the child, it isn't because of anything they have done or because of anything they are. Even adults do silly things sometimes because they are upset, or because they have forgotten what is most important.

If you know where the other parent is, it can be helpful to get in touch with the other parent and ask them (without being aggressive) how they would like you to explain it to the children. You don't need to try to solve the problem, just find a way to explain it.

At the same time you could encourage them to find other ways to show them that they still love them and are thinking of them. Perhaps email, postcards, quick texts, phone calls, etc.

Sometimes it helps to get grandparents involved. Contact with a grandparent can maintain the link between the children and that side of their family.

“ Vanya's story

My ex wouldn't see the kids after we split up. He just didn't want to know. It made the children really sad and confused, and as a result it made me furious. I resisted the urge to explain to the children it was because he was a selfish idiot. Instead I explained that he loved them but was so sad and angry about the end of our relationship he couldn't manage it just yet. It made it a lot easier for everyone concerned (including me) that they didn't feel like it was their fault or waste their time feeling really hurt or angry. Instead he wasn't really an issue.”

You are worried that their other parent will take them to live abroad

If you are concerned that their other parent will take them to live abroad, you can apply to the court for a Prohibited Steps Order and you can ask for the children's passports to be taken by the court. If you believe they may be planning to take them abroad very soon you can apply to the court to have the case heard without the other person being warned. If this happens, and an order is granted, it will be on a temporary basis until a hearing that everyone can be present at can be organised. If you are in this position you should get urgent legal advice – you may be able to get legal aid to pay for this. The court will look at what is in the overall interests of the children. See **If you have to go to court** on **page 16** for more information.

Common problems

The other parent plans to move further away

This is difficult and often causes a lot of stress for everyone involved. Whether it's the parent the children live with or not, it will have an effect on your arrangements for the children. How you deal with things may depend on whether the move is permanent or short-term. Usually the best thing to do is to try to come to a new agreement about where the children will live and how they will maintain a good relationship with their other parent that works for everyone. It may mean that contact can't be every week but that when it does happen it lasts longer. Many parents agree to share the burden and cost of the extra travelling by meeting half way or taking it in turns to do the journey and arrange frequent contact over Skype and Facetime.

If you believe the move will not be in the best interests of the children then you could consider taking it to court. If you are in this position, it would be wise

to get some legal advice as soon as possible, if you can possibly afford to. If your ex is planning on relocating within the UK, and is not open to discussing the change in arrangements, don't just accept this at face value if you are not happy with it. Remember that the court's first consideration is what is in the best interests of the child and generally the court does not consider change and instability to be good for children.

You can get advice on dealing with issues like this from Gingerbread's Single Parent Helpline and the Children's Legal Centre – see More help and advice on page 31.



What does it mean?

Applicant

This is the name given to someone who applies to a court for a court order.

Cafcass

Cafcass stands for The Children and Family Court Advisory and Support Service. Cafcass Officers help the court by mediating at court and writing reports about the children's needs for the court. In some areas, Cafcass Officers also provide support for families going through divorce or separation.

Child arrangements order

An order which sets out the arrangements about who a child is to live, spend time or have contact with and when.

Child maintenance

This is the money a parent pays towards the child's upkeep. It is usually paid by the parent who the child stays with less.

Legal Aid

This is a government scheme to help people who live on a low income and have few savings and meet specific other criteria, pay for legal help. To get legal help or legal aid to go to court about a family issue you need to have evidence of domestic abuse within your relationship or evidence that your child is at risk of abuse from the other adult in the case.

Parental responsibility

This is the rights and obligations of a parent for and towards a child. It allows the person concerned to exercise certain decisions concerning a child and to be consulted about important changes or decisions such as those concerning health or education. It does not give the right to interfere unreasonably or unnecessarily in the care arrangements put in place by the child's main carer. Parental Responsibility is automatically held by the mother of the child and by the father if he is married to the mother. Since December 2003 Parental Responsibility is also automatically given to any father who is named on the child's birth certificate even if the parents are not married. Second female parents of children conceived on or after 6th April 2009 who are

(continued)

What does
it mean?

mentioned on the birth certificate have Parental Responsibility. So do civil partners of the child's biological mother. Parents who have adopted, have a residence order, or a child arrangements – live with – order also have Parental Responsibility. If the father or second parent does not have automatic Parental Responsibility it can be obtained by completing a parental responsibility agreement or by applying to the court for an order. See the **Advicenow website** for details.

Prohibited Steps Order

This is an order preventing someone from carrying out an action in relation to a child – an example is forbidding someone from taking a child out of the country or forbidding them from removing a child from the care of the other parent.

Respondent

If the other parent starts court proceedings you are the respondent.

Shared care

This is an arrangement where the children live part of the time with one parent and the rest of the time with the other.

Specific Issue Order

This is an order the court can make if it has been asked to make a decision on an important issue on which the parents cannot agree (for example, if you cannot agree about where they are going to go to school or whether the child should have an operation).

Warning notice

Since 8th December 2008 a warning notice that sets out the consequences of breaking the order has been attached to every contact order made by the court. If somebody disobeys an order with a warning notice (for example, by unreasonably preventing contact) you can apply to the court for an 'Enforcement order'.

What does it mean?

More help and advice

Cafcass

Cafcass work with children and their families, and then advise the courts on what they consider to be in the best interests of individual children. They have some useful information on their website www.cafcass.gov.uk

Court forms

You can download the court forms and leaflets by going to www.gov.uk/government/collections/court-and-tribunal-forms

Children's Legal Centre

You can get free advice on all areas of English child and family law from the Child Law Advice Line on **0300 330 5480** Monday to Friday 8am–6pm.

Gingerbread

Gingerbread provide expert advice, practical support and other help for single parents.

Website: www.gingerbread.org.uk

Single Parent Helpline: **0808 802 0925**

Relate

The Relate website has lots of useful information about problems that come up when relationships end. You can talk to a trained counsellor for emotional support on separation for free via their live chat service.

www.relate.org.uk/relationship-help/help-separation-and-divorce



National Association of Child Contact Centres

Contact centres are useful when parents are no longer able to communicate. They can provide a neutral place for children to meet the parent who no longer lives at home with them.

Website: www.naccc.org.uk

Helpline: **0845 4500 280**

Monday to Friday 9am until 1pm.

More help
and advice

MATCH – Mothers Apart from their Children

MATCH is a charity that offers non-judgemental support and information to mothers apart from their children in a wide variety of circumstances.

Website: www.matchmothers.org

E-mail: enquiries@matchmothers.org

Helpline: **0800 689 4104**
9am–1pm and 7pm–9.30pm.

Family Lives

Family Lives is a national charity providing help and support in all aspects of family life. Their helpline can give information, advice, guidance and support on any aspect of parenting and family life.

Website: <http://familylives.org.uk>

Family Helpline: **0808 800 2222**
Monday to Friday 9am–9pm
Saturday and Sunday 10am–3pm

OnlyMums

OnlyMums offers online support to parents going through divorce or separation. The site has a free web chat facility and email exchange service. OnlyMums and OnlyDads run the Family Law Panel, which links you up to specialist family law solicitors, barristers or mediators near you for a free initial conversation either on the phone or by email to help you work out how to go forward.

www.onlymums.org

OnlyDads

OnlyDads offers online support to parents going through divorce or separation. The site has a free web chat facility and email exchange service. OnlyMums and OnlyDads run the Family Law Panel, which links you up to specialist family law solicitors, barristers or mediators near you for a free initial conversation either on the phone or by email to help you work out how to go forward.

www.onlydads.org

Resolution

Membership organisation for family lawyers and other professionals committed to the constructive resolution of family disputes. You can find solicitors and mediators near you on their website: www.resolution.org.uk/findamember

Find a Family Mediator

Use the search provided by the Family Mediation Council to find one near you: www.familymediationcouncil.org.uk

More help
and advice

The information in this guide applies to England and Wales only. The law may be different if you live in Scotland or Northern Ireland.

The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested. The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

advicenow.org.uk

If you would like this guide in another format please email guides@lawforlife.org.uk

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