

Contact Arrangements

Interim arrangements

Final arrangements

Living with one parent vs living with both parents

4 May 2022

A balancing act – Section 1 CA 1989

- The child's welfare shall be the paramount consideration.
- Presumption that a parent's involvement in a child's life will further their welfare, unless contrary is shown.
- The S.1(3) CA 1989 welfare 'checklist,' including:
 - Ascertainable wishes and feelings.
 - Likely effect of a change in circumstances.
 - Age, sex, background and other characteristics.
 - Any harm which they have suffered or at risk of suffering.

Contact arrangements - indirect

Least intervention

Most cautious

- **“Letterbox” contact – letters, cards and gifts**

- Via a third party/solicitor.
- Resident parent to read letters to child and encourage a response.
- Child focused and age appropriate.

- **Telephone contact**

- Calls to the resident parent’s phone?
- Is the resident parent present to support contact?
- Duration (e.g. up to 30 minutes).

- **Video contact**

- Calls to resident parent’s phone/tablet?
- Duration (e.g. up to 30 minutes).

- Tip: Seek direction for resident parent to provide information about the child’s interests, likes and dislikes.

Most intervention

Least cautious

Contact arrangements - Direct

Least intervention

Most cautious

- **Supervised contact**
 - Who can supervise – is there a third party?
 - If there is no third party – can a contact centre be used?
 - Where?
 - Who will pay?
 - Notes from contact sessions.
- **Supported contact**
 - May be in community, even with professional support.
 - Cheaper.
- **“Daytime” contact**
 - Proposed location and activities?
- **Overnight contact**
 - Is the accommodation suitable?
 - Is there a means for emergency communication.
- NB: Make sure that you have a practical plan for the travel and handover arrangements.

Most intervention

Least cautious

Managing a risk of domestic abuse

- PD12J –
 - Para 25 – interests of child to do so and satisfied that would not expose child or other parent to an unmanageable risk of harm.
 - Para 25 – particular consideration to likely effect on child, on care given to the child by the parent making the allegations and any risk of harm caused by making/not making the order.
 - Para 27 - whether contact will be beneficial for the child.

Interim contact arrangements

- What is the starting point:
 - What contact has happened to date?
 - When was the last time contact took place?
 - What has changed and what was the impact of that?
- What is the end goal and how do we get there successfully?
 - Re-introduction.
 - Stepped progression in frequency and duration.
 - Quality and quantity.

Final order for contact

- **Suggested checklist for DRA/final hearing:**
 - Term time contact
 - School holidays
 - Christmas
 - Easter
 - Summer
 - Half-terms
 - Special occasions/bank holidays/inset days
 - How will handovers work?
 - How can parents communicate in an emergency?
- Be realistic about what will work.

Living with one or both parents?

- A shared residence order is appropriate where the children spend a substantial amount of time with both parents: *D v D (Children: Shared Residence Order)* [2001] 1 FLR 694, per Hale LJ at paras 29-33.
- There is no convention that the child must live with one or the other parent, the order should reflect the reality: *Re A (Children) (Shared Residence)* [2002] EWCA Civ 1343 per Thorpe LJ at para 10.
- The key question is whether a shared order would indirectly benefit the child by emphasising the equality of parental responsibilities: *Re W (Shared Residence Order)* [2009] EWCA Civ 370 per Wilson LJ at para 15.
- There is no principle that a poor parental relationship alone prevents a shared order: *L v F (2017)* EWCA Civ 2121 per Jackson LJ at para 70.

Questions