



# Child arrangements orders

## WHAT IS A CHILD ARRANGEMENTS ORDER?

Private children law is concerned with the steps a parent can take when they exercise their rights and responsibilities towards their child. This is also known as exercising their parental responsibility (PR).

When parents separate, disputes may arise about where and with whom a child will live, or how much time they will spend with a parent or other person with whom they do not live. If these arrangements cannot be agreed on, it will be necessary to apply to the court for orders deciding these issues.

A child arrangements order (CAO) is an order that regulates arrangements for a child that relate to any of the following:

- with whom the child is to live, spend time or otherwise have contact
- when the child is to live, spend time or otherwise have contact with any person

Contact simply means the time that a child spends with an adult. There are several ways that contact may take place:

1. direct contact between the child and the person named in the order
2. overnight staying contact
3. supervised contact, and
4. indirect contact through letters or cards

In rare circumstances, where the best interests of the child dictate, the court can order that there is no contact.

A CAO may specify the person with whom a child is to live, but not specifically where.

A CAO may provide for the child to live with one parent only or it may provide for the child to share their time between both parents.

An order that provides for a child to spend time with both parents does not necessarily mean the child's time will be spent equally between their parents. It is more a reflection of the parents' equal status in the eyes of the

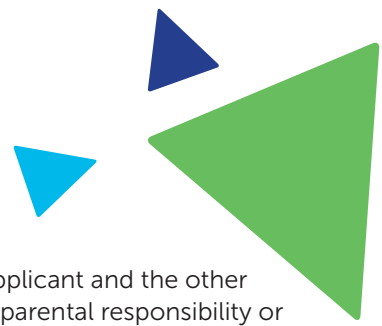
court. The child may still spend more time at one home than at the other and the child arrangements order will usually say in detail how the child's time is to be divided.

## WHO CAN APPLY?

Certain people are automatically entitled to apply for a CAO:

- any parent, guardian, or special guardian of the child
- a stepparent who has parental responsibility for the child by virtue of an order or agreement
- any person in whose favour a residence order is in force in respect of the child
- any party to a marriage or civil partnership (whether or not subsisting) in relation to whom the child is a child of the family
- any person with whom the child has lived for a period of at least three years (this period need not be continuous but must not have begun more than five years before, or ended more than three months before the making of the application)
- a person who is not the parent or guardian of the child but is named in a CAO as a person with whom the child is to spend time or otherwise have contact, and the court, has provided in the CAO for the person to have parental responsibility for the child
- any person having the consent: of each of the persons named in a CAO as a person with whom the child is to live; of the local authority, if the child is in local authority care; or in any other case, each of those who have parental responsibility for the child
- a local authority foster parent is entitled to apply for a CAO regulating with whom and/ or when a child is to live with a person if the child has lived with them for a period of at least one year immediately preceding the application; and
- a relative of a child is entitled to apply for a CAO regulating with whom and/or when a child is to live with a person if the child has lived with the relative for a period of at least one year immediately preceding the application





There are additional provisions that relate to who may apply to vary or discharge a CAO and we will discuss with you whether your circumstances meet that criteria.

Anyone else who is not automatically eligible may apply for a CAO if they first obtain permission of the court.

### HOW LONG DO THEY LAST?

A CAO that regulates with whom the child is to live and when, will last until the child is 18 (unless the court orders an earlier date). A CAO that regulates when the child is to have contact with a person will usually end when the child is 16 but in limited circumstances can last until the child is 18.

CAOs end automatically if a child's parents live together for a continuous period of more than six months after the order has been made.

### WHAT IS THE PROCEDURE?

If it is not possible to reach an agreement about time with the children or where they should live, you can apply to the court for an order. Before you can do this, you are now required by the rules governing these applications to attend a meeting with a mediator, a mediation information and assessment meeting (MIAM) to see whether mediation might be suitable, rather than using the court.

This requirement applies unless certain exemptions, including issues relating to the safety of the child or domestic violence, apply. The other party to the proceedings will also be encouraged to attend mediation. If you are willing to attend together then the mediation meeting may be conducted jointly; otherwise, separate meetings will be held.

If mediation is not successful in resolving matters, or the other party will not attend, then an application to court for an order to resolve children disputes is currently made online using a specific court form, which sets out the details of all the adults and children in the case. It then requires you to say what orders you are asking the court to make and why.

When the court receives the application, it will set a time and date for you and the other person or people involved to have a first court appointment (called a first hearing dispute resolution appointment (FHDRA) currently via remote video links or telephone). Information about this appointment and a copy of the application form must usually be sent to any other adults involved so that they have time to prepare a response. The person starting

the court process is called the applicant and the other parent, and any other adult with parental responsibility or looking after the child, is a respondent.

The respondent(s) must complete certain forms and send them to court to confirm they have seen the papers.

### WHAT HAPPENS AT COURT?

The FHDRA is when the court investigates the issues and enquires into the possibility of settlement. If agreement cannot be reached the court will identify the outstanding issues and will direct how the case should proceed.

The court might order that a Cafcass (Children and Families Court Advisory and Support Service) officer prepares a report to help the judge at the final hearing, or it might order that the child be legally represented in the proceedings. An order may be made for the parties involved to prepare written statements of the evidence that they want the court to hear. Sometimes the court will adjourn the case for mediation to take place.

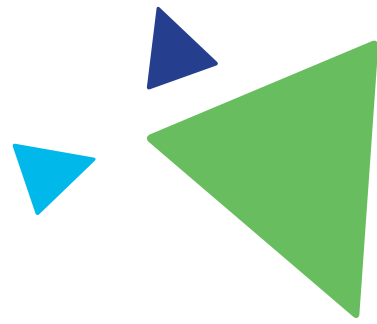
If the issues cannot be sorted out, the court will ultimately hold a final hearing. At that stage a judge will hear evidence from the adults involved, the Cafcass officer and any other necessary experts, and then make a decision.

### HOW DOES THE COURT DECIDE WHAT SHOULD HAPPEN?

The first concern of the court is the child's welfare. The Children Act 1989 provides a list of considerations for the judge who has to decide the case, which help guide them in making a decision, including:

- the wishes and feelings of the child concerned
- the child's physical, emotional and educational needs
- the likely effect on the child if circumstances changed as a result of the court's decision
- the child's age, sex, background, and any other characteristics that will be relevant to the court's decision
- any harm the child has suffered or may be at risk of suffering
- the capability of the child's parents (or other relevant people) in meeting the child's needs, and
- the powers available to the court





Additionally, the court must presume when considering an application for a CAO, unless the contrary is shown, that involvement of each parent (of some direct or indirect kind but not any particular division of a child's time) in the life of the child concerned will further the child's welfare. That presumption applies if that parent can be involved in the child's life in a way that does not put the child at risk of suffering harm.

The court must also be satisfied that making an order is better for the child than not making an order at all.

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This factsheet provides general guidance. Your Wills and Trust lawyer will be able to provide specific advice based on your circumstances. Wolferstans has taken all reasonable care to ensure that this factsheet was accurate on the stated date of publication or last modification.

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