

Separated Parenting: The Court's Powers

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What is the court's response if parents can't agree on the best arrangements for their children? I am a divorce and family lawyer; and mediator; at Hopkin Murray Beskine Solicitors where I regularly advise clients in this situation. Disputes regarding children range from fundamental differences such as where children should live, to more subtle concerns such as different approaches about homework, rules for privileges, watching TV, use of the internet. Many of these issues are very suitable for mediation but sometimes such disputes end up being dealt with in court.

Firstly, the court will investigate any serious safety issues within the family such as issues of violence, police involvement, drink or drug abuse which could put the children at risk. Once satisfied about this, the court will look at a certain range of options to help parents resolve disputes.

It is always hard to manage differences of opinion about children - but if you have to do it a time when emotion and distress is high, especially at the point of separation, it is a particularly difficult challenge. Various programmes have been set up to help parents at this stage and the court can require parents to attend them. They aim to assist in establishing, maintaining or improving contact and relationships with the children. They are for both parents and if they are ordered, it is compulsory to attend.

The feedback from these courses suggests that parents are often reluctant to attend but usually find them helpful. The service that operates these programmes is CAFCASS (Children and Family Court Advisory and Support Services). There is a lot of information and guidance on their website.

Parenting Information Programmes are one activity that you can be required to participate in. There is no cost if the court directs you to attend;

otherwise it's about £150. Parents do not go on the same course. The programme looks at the process of separation and in particular how this is experienced by your children. It can be very difficult to focus on your children's needs when there is conflict with the other parent or when distress or anger about the separation is intense. The programmes can lead to using mediation to resolve outstanding issues, including improving communication which always suffers at times of conflict.

The court's view is that it is almost always in the children's interest if matters can be settled by agreement, whether that is through discussion, mediation, attendance at these training programmes or the involvement of a CAFCASS officer. CAFCASS can talk to the children and both parents, observe contact and make recommendations. If agreement can't be reached, the court will make a decision, having reviewed all the evidence and recommendations from CAFCASS. The issue is: what is in the children's best interests? This includes considering the wishes of the children; their physical, emotional and educational needs; the likely effect of change in their circumstances; the child's age, sex background or any other relevant characteristic. The court will also look at any harm which the child has suffered/ might suffer and the capabilities of either parent in meeting the needs.

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