



President of the Family Division

An Important Message

Dear Parent/Carer

As the most senior judge in the Family Court in England and Wales, I am writing to you because you have made an application to the court, or you have received an application which someone else has made.

Please think about these things first:

- As parents, you share responsibility for your child and have a duty to talk to each other and to make every effort to agree about how you will bring them up.
- Even when you separate this duty continues.
- The law expects you to do what is best for your child even when you may find that difficult.
- The law requires a court to presume that the involvement of a parent in a child's life will further the child's welfare unless the contrary is shown and, unless it is unsafe to do so - a child will normally need to have a loving, open relationship with both parents.

You should try to agree the arrangements for your child.

If talking to each other is difficult, help is available from a range of sources and the purpose of this letter is to point you towards them.

SAFETY

In some families, there may be concern about a child's safety or a child being at risk of harm. If that is so, some form of court order may be needed to protect the child's welfare.

If there are child protection concerns, or if the matters in the application concern allegations of abuse which will need a judge's decision about whether protective measures are needed, the court application should continue.

The rest of this letter gives information to help families resolve their issues where there are no such safety worries.

A CHILD'S WISHES AND FEELINGS

Children who are old enough to express their own views have a right to be consulted when decisions are made which affect them. If you need help to ascertain your child's wishes and feelings, professionals, such as a family mediator, an independent child consultant or an independent social worker can assist – you do not have to proceed with a court case to learn what your child thinks about the options for their care.

PARENTS / CARERS WHO STRUGGLE TO AGREE

The law gives parents/carers the responsibility to decide the best arrangements for their child, but families may sometimes disagree about what is best.

When families separate, a disagreement about what is best for a child can feel very hard to resolve, but you do not need to go to court to access help in reaching an agreement; there are other ways.

Most separated parents (9 out of 10), with the right help, manage to agree what is best for their child themselves without asking the court to decide.

There are a number of different methods and models to resolve a disagreement about what is best without a court having to decide. The options can be broken down into three broad categories:

1. *'We need support in making an agreement'*: this option can be used if you both want to make an agreement but need help from someone who is independent to help you to reach that agreement. Examples of this option are family mediation (see below) and collaborative law (your solicitor working collaboratively with the other parent's solicitor). You can even ask a trusted friend or family member to help you informally.
2. *'What is the likely outcome?'*: if you need a firmer steer from a neutral person about what sort of arrangements a court would make if the court application continued, but you wish to still have the final say in coming to an agreement, both parents may together instruct a solicitor or barrister to give them a neutral evaluation of the likely outcome.
3. *'We want the decision made for us'*: you do not need to go to a court to get a decision, instead you can both agree to be bound by a decision made by a neutral person acting as an 'arbitrator'.

More information about all of these options can be found by searching on 'Making child arrangements if you divorce or separate' on the gov.uk website.

WHY COURT IS USUALLY NOT THE BEST CHOICE

There are lots of reasons why it is best for families to agree arrangements for a child together, rather than come to court; here are four:

1. Parents/carers know the child best. A judge is an expert in family justice but does not know your child as you do.
2. Parents/carers who agree arrangements themselves are more likely to stick to them; arrangements ordered by a court sometimes break down.
3. Research has shown that conflict between parents/carers is harmful to children emotionally and for their brain development. Coming to court is also stressful and likely to increase bad feelings between you and the other parent/carer, which could then impact on the child.
4. The court process may not be quick, and it may be months before a decision can be made.

MIAM

MIAM is short for a “Mediation Information and Assessment Meeting”. At a MIAM an independent person - a family mediator - helps you consider the options and resources available to you when separating. They also give you relevant information that will help you consider whether you could solve issues outside of court and the options available for you to do that.

Through funding from legal aid, a MIAM is free for those with limited income and savings and covers the other parent/carer too. You can find out if you are eligible by searching ‘legal aid’ on the gov.uk website.

If you are the person who applied to court (often called ‘the applicant’) you *must* have attended a MIAM before making your application to the court, unless you had a valid exemption.

If you are the person responding to a court application (often called ‘the respondent’) you are strongly encouraged to attend a MIAM even though you were not legally required to do so before the application was made to court.

If a MIAM has not already been attended by either or both of you, the court could order (require) you to attend one, now that an application to court has been made.

The Family Court encourages parents to attend a MIAM because these are extremely helpful meetings.

FAMILY MEDIATION

If, during a MIAM, you and the family mediator agree that mediation might be suitable for you, the Ministry of Justice's Family Mediation Voucher Scheme can offer a contribution of up to £500.

Like MIAMs, mediation can be completely free through legal aid for those with limited income and savings. It covers one meeting for the other parent/carer also. The mediator will be able to confirm if you are eligible.

Mediated agreements can be reached much more quickly than obtaining an order in court proceedings, and evidence shows that they last longer, too.

You may not be familiar with family mediation. The important things to know are:

1. Mediation is not relationship counselling. The purpose of mediation is to help you and your family agree specific arrangements in relation to your child(ren) For example, where a child will spend their time following a separation.
2. Mediators are trained to bring parents/carers together to reach an agreement, even if one of the parties is sceptical or resistant to mediating.
3. Where there's a child of suitable age, they can be invited to meet the mediator and give their views on what arrangements they would like to be made, which the mediator will then discuss with you.
4. While courts will only make orders if they think this is necessary in the child's interests, it is possible to have mediated agreements formalised through the court through a process called a 'consent order'. You can ask your local court about this process.

SEPARATED PARENTING PROGRAMMES

Separated Parenting Programmes are not about telling a parent how to be a better parent. They help parents learn how separation, and the conflict that can sometimes go with it, can impact on children. They help parents get information and identify ways to help children adjust.

These programmes take place individually or in groups with a trainer and other parents in a similar situation who help and support each other. You will not go to the same session as your ex-partner. The sessions cover practical issues including communication, childcare arrangements, holidays and schooling. You can search your local council website to find out what is available in your area.


PARENTING PLAN

A parenting plan is simply a list of the arrangements for your child now that you, their parents, have separated. There are a number of examples of parenting plans available which aim to cover most of the issues that might arise after you have separated so that you can co-parent effectively. The plan puts a focus on the wellbeing and future of your child. You can draw up a parenting plan any time, but the sooner you can lay out these plans, the better prepared you will be to manage co-parenting. Going through the exercise of trying to draw up a parenting plan often identifies how much a couple actually agree about, as well as those aspects on which they may not see eye to eye.

You can find an example of a parenting plan on the Cafcass or Cafcass Cymru website by searching for 'parenting plan'.

I hope that you have found this letter useful in setting out the various options for making child arrangements and the support that is available to families.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. McFarlane', with a horizontal line drawn underneath the signature.

The Rt Hon Sir Andrew McFarlane
President of the Family Division