

Family Law

Legal Update | January 2026

Introduction

This legal update covers key aspects of family law in England and Wales, including the Children Act 1989, public and private law proceedings, financial remedies, and domestic abuse. It is intended as a reference for family law practitioners and professionals.

Children Act 1989

The Welfare Principle (s.1)

When a court determines any question with respect to the upbringing of a child, the child's welfare shall be the court's paramount consideration. The welfare checklist in s.1(3) includes:

- The ascertainable wishes and feelings of the child (in light of their age and understanding)
- The child's physical, emotional and educational needs
- The likely effect of any change in circumstances
- The child's age, sex, background and relevant characteristics
- Any harm the child has suffered or is at risk of suffering
- The capability of parents and others to meet the child's needs
- The range of powers available to the court

Section 8 Orders

The court may make the following orders under section 8: Child Arrangements Orders (replacing residence and contact orders), Specific Issue Orders, and Prohibited Steps Orders. The no order principle in s.1(5) provides that the court shall not make an order unless it considers that doing so would be better for the child than making no order.

Public Law Proceedings

Care and supervision proceedings are governed by Part IV of the Children Act 1989. The threshold criteria in s.31(2) require the court to be satisfied that: (a) the child is suffering, or is likely to suffer, significant harm; and (b) the harm is attributable to the care given to the child not being what it would be reasonable to expect a parent to give, or the child being beyond parental control.

Domestic Abuse Act 2021

The Domestic Abuse Act 2021 introduced a statutory definition of domestic abuse, covering physical or sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, psychological, emotional or other abuse. The Act recognises that children who see, hear or experience the effects of domestic abuse are also victims.

Useful Resources

- [legislation.gov.uk](https://www.legislation.gov.uk) - Children Act 1989

- GOV.UK - Family Court forms
 - CAFCASS - Children and Family Court Advisory Service
 - Family Justice Council Guidance
 - Resolution - Family Law practitioners
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This document is for general information only and does not constitute legal advice.
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