

FOCUS ON CHILDREN'S NEEDS FOLLOWING SEPARATION/DIVORCE.

It's a sad fact, but statistics show that approximately 2 out of 5 first marriages end in divorce, as do around 7 out of 10 second marriages. As a solicitor specialising in family law I believe strongly in promoting family life. Ending a relationship should not mean an end to the parental relationship that adults have with their children.

There has been much in the press about the failings of the CSA (Child Support Agency, now the Child Maintenance and Enforcement Commission), however figures show that 70% of absent parents do contribute financially towards their children's upbringing. Although this could be better, what I wish to tackle in this article is the danger in addressing children's financial requirements, but ignoring their emotional needs.

The general assumption is that unless there is good reason, children are best served by having good contact with a parent with whom they do not reside. In addition, as parents' divorce/separation is a huge upheaval and very upsetting for children, there is a strong argument that having a stable and loving relationship with extended family is also of importance.

There was much publicity regarding father's rights prior to the Fathers4Justice movement being disbanded (following the leak of the plans to kidnap Leo Blair.) In addition, mothers and grandparents all have support groups to raise awareness about their being denied contact with children. So, how does the law approach matters?

In simple terms, in a dispute over contact with a child, the law does not recognise the parents or grandparents' rights. Rather, the Court's paramount consideration will be the child's welfare, and the first consideration is whether it is necessary for the Court to make an Order at all.

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The Court will have regard in particular to:

- the ascertainable wishes and feelings of the child (considered in the light of their age and understanding);
- their physical, emotional and educational needs;
- the likely effect on the child of any change in circumstances;
- the child's age, sex, background, and any other characteristics which the Court considers relevant;
- any harm which the child has suffered or is at risk of suffering;
- how capable each of the adults are of meeting the child's needs;
- the range of powers available to the Court.

Disagreements as to contact may arise following separation, but the way that they are approached can make a difference to the way that your children experience the break up. Many people are now more aware of the effect of divorce on children, and realise that there may even be long term effects that encroach on the children's future relationships.

Judges in this country have reviewed a study carried out in Australia on how to minimise lasting psychological damage to children. The results showed that mediation between the parties was helpful but that mediation where the children are also seen separately, with their wishes fed back to their parents, works even better.

In the meantime, if mediation and negotiation do not work, the alternative is for parties to make an application through the Courts for such matters to be decided by them. In this instance, a CAFCASS (Children and Family Court Advisory and Support Service) reporter is appointed, to meet with all the parties, and prepare a report to assist the Court.

If you require assistance in relation to children's issues, or indeed if you have been able to agree the issues regarding your children but require a solicitor to assist in divorce, separation or financial matters, contact Catherine Blanchard or Jackie Arnold on 01732 228 800 or email catherine@dmblaw.co.uk