Formalising Arrangements for Children (if you are experiencing a problem)

If you are experiencing difficulties in relation to a child, for example your child lives with your former partner and you are having difficulty getting to see your child or your child lives with you but you are worried that your former partner will not return your child after contact, you can seek the help of the court by applying for a Contact Order, Residence Order or other order depending on your own unique circumstances.

To apply for a residence or contact order under you will need to fall into one of the following groups:

- a parent, guardian or special guardian of a child
- anyone who holds a residence order in respect of that child
- a step parent of the child where the child lived with the step parent as a child of the family
- anyone with whom the child has lived for at least 3 years

anyone who:

  - Where there is already a residence order in place has the consent of every one who holds that order or
  - Who has the consent of the local authority where the chid is in their care
  - Has the consent of everyone who has parental responsibility for the child.

If you do not fit into one of the groups above you may stiill make such an application but before you can do so you will need to apply to the court for an order giving you permission to make an application for a contact order or other similar order. This process is known as seeking "leave" to issue an application. In deciding whether to grant "leave" the court will consider, amongst other things:

- the nature of the application
- the connection between the person who is applying and the child
- the risk there might be of the proposed application disrupting the child's life to such an extent that they should be harmed by it

Wider family members such as grandparents will have to follow the route of obtaining leave to make an application for orders in respect of their grandchildren.

Before the court will make an order in relation to a child it must have regard to the Welfare Checklist. The Welfare Checlklist asks the court to conisder the following:

- The ascertainable wishes and feelings of the child concerned (considered in light of his age and understanding)
- Their physical, emotional and/or educational needs
- The likely effect on the child of any change in their circumstances
- Their age, sex, background and any characteristics of theirs, which the court considers relevant
- Any harm which they have suffered or is at risk of suffering
- How capable each of the parents and any other person in relation to whom the court considers the question to be relevant, is of meeting their needs
- The range of powers available to the court under the Children Act 1989 in the proceedings in question

What is a Residence Order?
A residence order is an order settling the arrangements for a child as to the person with whom they are to live. In addition, a residence order automatically gives parental responsibility to any person in whose favour it is made for as long as the order is in force.

A Residence Order is intended to be more flexible than the former custody order. The making of a residence order will not end the parental responsibility of any person (save for a previous residence order holder who is not a parent); thus the order does not affect the legal relationship between a child and it's parents. It settles the practical arrangements relating to a child's accommodation.

Parental responsibility obtained as a result of a residence order will continue until the order ceases. A residence order lasts until the child is 16 unless the circumstances of the case are exceptional and the court has ordered that it continue for longer.

A residence order can be granted to more than one person and can be made jointly to an unmarried couple. A residence order also prevents anyone changing the surname of a child or from removing that child from the UK (for more than 1 month) without the agreement of everyone with parental responsibility or an order of the court.

What is a Contact Order?
A contact order is an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or provide for some other form of contact such an indirect contact by letter, video or the exchange of Christmas cards etc..

A contact order can continue until a child is 16 years of age. The court will only make contact orders for children over 16 years old in exceptional circumstances.
Contact Orders can be very specific as to times, dates and arrangements for contact these are know as "defined" orderds. Other orders will be more open with the precise arrangements are left to be made between the parties by agreement.

Contact Oreders are available not just to parents for contact with their children, they can also be made, for example, to provide for contact between brothers and sisters.

Sometimes the order will give directions that the contact is to be supervised by a third person, such as a family memerb or that contact is to take place at a contact centre. The order may also only be for a specific period or contain provisions which operatefor a specific period.