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Our Ref: { MERGEFIELD MATTER_FEE_EARNER_ID }/{ MERGEFIELD client_no }/{ MERGEFIELD matter_no }

Your Ref:

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Dear { IF {MERGEFIELD LINKNAME_SURNAME_1 } = "{ MERGEFIELD LINKNAME_SURNAME_2 }" "{ MERGEFIELD LINKNAME_TITLE_1 } and { MERGEFIELD LINKNAME_TITLE_2 } { MERGEFIELD LINKNAME_SURNAME_1}" "{ IF { MERGEFIELD LINKNAME_SURNAME_2 } = "" "{ MERGEFIELD LINKNAME_TITLE_1 } { MERGEFIELD LINKNAME_SURNAME_1}" "{ MERGEFIELD LINKNAME_TITLE_1 } { MERGEFIELD LINKNAME_SURNAME_1 } and { MERGEFIELD LINKNAME_TITLE_2 } { MERGEFIELD LINKNAME_SURNAME_2}" }" }

Re: { MERGEFIELD MATTER MATTER_DESCRIPTION }

I am { MERGEFIELD CALCULATION_FEE_EARNER_DESCRIPTION }, a { MERGEFIELD CALCULATION_STATUS_DESCRIPTION }, in the Family Department. I will have conduct of your matter throughout. I am supervised by { MERGEFIELD CALCULATION_EXECUTIVE_NAME }, who will also be aware of your matter.

Your Instructions

Our Advice

What are Child Arrangement Orders?

Child Arrangement Orders (CAO) regulate arrangements relating to children when parents separate. I have detailed below the types of CAO which are available.

CAO – Residence

The Court may make an order naming the person a child will live with. The Court may also make an order that a child will live with both parents, and will specify when the child will live in each household.

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The benefit of having a CAO for residence is that you are able to take the child abroad for up to one month without the other parent's consent or the Court's permission.

A parent without a CAO for residence would have to have the permission of the other parent. If the parent does not give permission, it is possible to make an application to the Court for them to determine whether the child should be allowed to go on the holiday. In this case, this order is called a Specific Issue Order (which I will give further details of below).

CAO – Contact

A CAO for contact sets out when each parent will have contact with the child. This is useful when parents cannot decide if or when the child should have contact with the other parent.

There are different types of contact which can be ordered, depending on each family's circumstances.

Direct contact involves the child having contact with a named person, either by visiting them or staying with them. The Court, so long as it is safe to do so, prefer to approve arrangements where children have direct contact in order to maintain a relationship with the other parent. Indirect contact is contact between a person and child which does not take place face to face. This can be, for example, by e-mail, telephone, video calling or sending letters, cards and presents on special occasions such as birthdays and Christmas.

It is typical for babies and very young children to begin having contact with the other parent during short but frequent contact visits, and progress to longer and possibly overnight visits as they get older. If, for example, a child has not seen the other parents for a substantial amount of time, the Court may make an order for indirect contact to begin with, gradually increasing to direct contact over a set period of time in order to reintroduce the child and parent. This can then lead to overnight stays in the future, if appropriate.

If the Court believes that there is a risk to a child's welfare through direct contact, they may order that the contact is supervised. For direct contact, this could mean seeing the child at a dedicated Contact Centre where staff will keep an eye on the contact session. It could also be a relative or friend being present during contact, perhaps in a public location. If no welfare concerns are raised during contact, it can progress to unsupervised contact.

When do CAO end?

A CAO for contact will end when the child is 16 years old, or in exception circumstances, 18 years old. The Court can, however, stipulate how long the order should remain in place.

For residence, this ends when the child is 18 years old.

Please note, however, that if both parents live together for a continuous period of six months after the order has been made, it will immediately come to an end.

Who can apply for a CAO?

There are, in fact, several people who can apply for a CAO other than the child's natural parents. In addition, the following can also apply:

- A step-parent or any person who has been granted Parental Responsibility for a child either by agreement or by Court order.
- A guardian or special guardian.
- Any person named as the person a child will live with in an existing CAO.
- Any person who is married to or in a civil partnership with the parent of a child who has been treated as part of the family.
- A person who the child has lived with for three years. This does not need to be a continuous period, however it must not have started longer than five years before the application is made, nor ended less than three months before the application is made.
- Any person who has the consent of the Local Authority where the child is in the Local Authority's care.

Anyone who does not fall within the above categories must apply for permission from the Court to make an application for a CAO. This would be the case for grandparents wishing to have contact with grandchildren.

Specific Issue Orders

A SIO is helpful where the parties cannot agree on a specific issue and require the Court's assistance to do so. An application can be made for things such as taking a child on holiday where the other parent does not give their permission, or deciding what school a child should attend, or whether a child should have a certain type of medical treatment.

Prohibited Steps Orders

PSO are designed to prohibit someone from doing something. They can also apply to people who are not party to the proceedings, for example a parent's new partner or friend.

For example, applications can be made where a parent intends to move abroad with the child. If the other parent has not given their permission to this and believes that the parent is going to go ahead with the move they can make an application to prohibit this. It would then be for the parent intending on moving to make an application for a specific issue order for the Court to determine whether the move should be allowed or not.

The parties can make an *ex-parte*, or 'without notice', application to the Court. This is appropriate where the person making the application believes that if they notified the other parent it would frustrate the application being made or put themselves or the child in immediate risk of harm. The Court will hear the application and may make an order, if they find it reasonable to do so, to prohibit the other parent from doing something. This would be particularly relevant to the above example if the parent intending to leave had made it known that they were leaving forthwith.

How to make an application

The Court, other than in 'without notice' situations, require the parties to have attempted mediation. They far prefer parents reach an agreement outside Court as this is a much quicker for all involved, less costly, and tends to lead to less rancour between the parties.

If, however, mediation does not work, an application can be made.

There first Court appointment is referred to as a First Hearing Dispute Resolution Appointment (FHDRA).

During this hearing, the Court identifies the issues in dispute with a view to resolving them as quickly and inexpensively as possible. All parties to the application must attend the FHDRA.

Prior to the FHDRA, a Welfare Officer from the Children and Family Court Advisory Support Service (CAFCASS) will have a telephone appointment with you and with the other parent. They will undertake some checks with the Court to look for prior applications, and with the police to check for any criminal records which may be of relevance to the application.

CAFCASS then prepare a short report, referred to as the 'Safeguarding Letter' which is usually made available to the parties and Court prior to the hearing. It outlines the parties' positions, any relevant Court or police information and any recommendations from CAFCASS. Depending on each situation, CAFCASS may make recommendations for drug or alcohol testing of one or both parents if issues surrounding those have been raised, or that a Section 8 Report is prepared, amongst other things.

A Section 8 Report is prepared by a CAFCASS social worker. Over a period of approximately eight weeks, the social worker will meet with you, the other parent and the child in order to investigate the issues raised by each parent and make recommendations for contact or living arrangements.

If CAFCASS do not believe a Section 8 Report is necessary, and both parties are able to reach an agreement in relation to the issues at the FHDRA, the Court may make a final order at this stage. It is of course best if this can be achieved, as it will save considerable time, money and stress for both parties and the children, since Court proceedings can be lengthy, taking around six to 12 months from start to final hearing (if required).

If, however, the parties cannot reach an agreement, or CAFCASS believe the Section 8 Report is necessary, then there will be a further hearing listed called a Dispute Resolution Appointment (DRA).

If a S8 Report has been prepared, this will usually be provided to all parties prior to the DRA so the recommendations can be considered in advance. Depending on the outcome of the S8 Report, and whether the parties can make an agreement, it is possible for the matter to be concluded at that point and a final order made. If, however, further information is required, the Court may list another DRA. If it is a case of the S8 Report recommendations being clear, but the parties cannot agree on them, a final hearing will be listed. If there is no S8 Report but the parties still cannot agree arrangements at the DRA, a final hearing will be listed.

At the final hearing, the parties will be cross-examined. It is quite an unpleasant experience, and therefore it is always best if parties can reach an agreement prior to the final hearing so they can avoid this. If the matter has reached the final hearing stage, the Court will determine what order to make and the parties will have no say in the arrangements made. I therefore encourage all clients to attempt to reach an agreement in as amicable a way as possible in order to limit the expense and stress that comes with making applications to the Court.

Next Steps

I require you to sign and return the enclosed client care documentation as soon as possible.

I would encourage you to return all documents to me via our secure client portal; login details will be provided to you shortly. The portal is a secure way for us to communicate, and send and receive files, protecting your sensitive data. If for any reason you are unable to access the portal, or have difficulty accessing the internet, please let me know.

If you have any questions, please do not hesitate to contact me.

Yours sincerely

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