



MEETING CHILDREN'S NEEDS UPON A RELATIONSHIP BREAKDOWN

Under the Children's Order (Northern Ireland) 1995, the family courts have the power to make decisions in respect of any issues in dispute between the parents or carers of a child. When making such decisions, the court is guided by the principle that the child's welfare shall be the 'paramount consideration.' The court is also duty bound to ensure that such cases are dealt with in a timely fashion, that orders are only made if it would be better for the child to do so, and that litigation on such matters should be

limited only to those instances when it is required in order to meet the child's best interests.

In ensuring that a child's welfare is met, the court must refer to a statutory checklist. Regard must be given to the child's ascertainable wishes and feelings in light of their age and understanding; the physical, emotional and educational needs of the child; the likely effect of any change in circumstances; the child's age, sex, background and any other relevant characteristic; any harm or risk of harm the child is likely to suffer; the capability of each parent to meet the child's needs; and finally the range of powers available to the court in respect of the proceedings in question.

Frequently courts are called upon to settle the arrangements as to with whom a child should live by way of an application for a 'Residence Order'. Another common application would be for a 'Contact Order', which requires the person with whom the child is living to allow the child to visit or stay with another named person.

Under the legislation, the courts also have the power to grant 'Prohibited Steps Orders', which restrain in some way the actions of another person in relation to the child, for example, by preventing the removal of a child to a foreign country. Further a 'Specific Issue Order' can be made to determine a particular question relating to the exercise of parental responsibility, such as where a child should be schooled, or what surname a child should be known by.

Applying to the family courts for any order in respect of a child should only be considered if arrangements can not be agreed between the parties. Before issuing proceedings, it may be helpful, where appropriate, to engage an independent third party, such as a counsellor or mediator, to facilitate discussions to attempt a more amicable resolution of any issue in dispute. If that fails and a court application is the only likely avenue to resolve the matter, contact a solicitor. Legal advisors acting in such cases are bound to prioritise the child's needs and best interests when advising their

clients and to adopt an inquisitorial approach, as opposed to an adversarial one, in order to minimise any negative impact on all the parties involved of engaging in such proceedings.