



Information Sheet: Children Act and Contact Orders

What is a Contact Order?

This is an Order "requiring the person with whom the child lives, or is to live, to allow the child to visit or stay with the person named in the Order, or for that person and the child otherwise to have Contact with each other".

It replaces what used to be called access.

It is always better to try and reach an agreement with the person with whom the child lives if this is at all possible. It may be appropriate to consider attending mediation with your former partner to see if an agreement can be reached, however, this will only work if you are both willing to attend and negotiate. We can provide details of mediation services if you are considering this. The parent with whom the child lives has a duty to promote Contact and to ensure that the absent parent has a continuing role in parenting the child.

Who can apply for a Contact Order?

Any person can apply for a Contact Order, even people who are not related to the child.

Applicants are divided into two categories:

those who can apply automatically, and,

those who need the Court's permission to make the application.

Who can apply automatically?

Any parent or guardian. The fact that a father does not have Parental Responsibility does not prevent him from applying.

Any person who is or was a party to a marriage in respect of which the child was a child of the family.

Who can apply with the Court's permission?

Any person, including the child, can ask the Court for permission to apply. The Court will consider the relationship between the Applicant and the child, and whether the application has any merit. It will also consider any risk that there may be of the proposed application disrupting the child's life to the extent that he may be harmed by it. If the child is in the care of the Local Authority the Court must consider the Local Authority's plans for the child and the wishes and feelings of the child's parents.



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How do I get a Contact Order?

An application for a Contact Order can be made on its own or together with an application for any other Order under the Children Act such as a Parental Responsibility Order (please ask for our information leaflet in respect of these).

Public Funding is available to bring such an application provided that the Legal Services Commission considers that there are sufficient merits and you are financially eligible, however, you may be required to attend mediation before the Legal Services Commission will grant you a Certificate. We will advise you fully about this.

Once the application has been issued, it will be passed to CAFCASS and the application will be dealt with under the "Dispute Resolution" process.

Dispute Resolution

The First Stage:

When there has been an application to the Court about your child(ren), the court arranges for you to meet a CAFCASS Family Court Adviser to discuss your application and what options are open to you and the court.

The meeting (which may last for up to an hour) is aimed at helping you to reach an agreement and will take place at the CAFCASS offices.

First, you will be seen by the CAFCASS Family Court Adviser who will discuss your views and any concerns you have. He or she will need to be made aware of any possible risk to yourself or your children.

A joint meeting may also be arranged with the CAFCASS Family Court Adviser and the other party with the aim of reaching an agreed plan for your child. At this joint meeting you may reach an agreement. The CAFCASS Family Court Adviser may record the details with you or may encourage you to discuss them with your solicitor.

You may feel that some further time is needed to consider ideas to help resolve your differences. You may need to try out a temporary arrangement, which could be reviewed at a future court date.



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If at any time, issues arise that concern the CAFCASS Family Court Adviser, and he or she decides it is not in the child's best interests to continue Dispute Resolution, the court would be advised and Dispute Resolution procedure will cease and will proceed through the Court process and will either proceed to a Hearing or a "Welfare Report".

A "Welfare Report" will address "Welfare Issues" such as allegations that one party to the proceedings abuses drugs/alcohol/has a criminal record/is violent etc. A Welfare Report usually take approximately 20 weeks to prepare and the Court will list your case for another short hearing after the report is ready. The parties will be required to see the Welfare Officers at their Offices, and explain their case. This is usually a meeting with both parties, however you can request separate appointments if you feel strongly about this. The Welfare Officer may also wish to see the child, and if appropriate, to ask the child's view.

Will my child be involved?

Your child(ren)'s views are important and, in law, have to be taken into account when official decisions are being made about them.

The CAFCASS Family Court Adviser will discuss with you how your child(ren) should be involved. **Child(ren) should not be brought to court.**

The Welfare Officer may also wish to make home visits to examine the current and proposed homes for the child.

The Welfare Officer will make a recommendation at the end of the report as to how the Court should deal with the application. It may be that during the preparation of the report an agreement will be reached in which case the parties can ask the Court to make an Order at the next hearing.

If the matter is to be listed for the Court to make a decision, the parties and any witnesses they wish to call will be required to prepare a statement of their evidence for the Court. These statements must be sent to the Court and to the other parties by a certain date fixed by the Court.

At the final hearing, you will be represented by a Solicitor from this Firm, or by a Barrister. The Court will hear evidence on oath from the parties and their witnesses who will be cross examined by the representatives for the other parties. The hearing will be in a closed Court where the public are not allowed to watch.



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Either party can require the Welfare Officer to attend the hearing and give evidence if they do not agree with the report or its conclusions.

The Court must then make a decision as to what if any Order should be made. The Court will base its decision on the "Welfare Checklist". This is a list of factors set down by the Law that the Court **MUST** consider in all contested proceedings.

These factors are:-

The ascertainable wishes and feelings of the child, considered in the light of his age and understanding

The child's physical, emotional and educational needs

The likely effect on the child of any change in the child's circumstances

The child's age, sex, background and any characteristics that the Court considers relevant

Any harm suffered or likely to be suffered by the child

How capable each parent, and any other person in relation to whom the Court considered the question to be relevant, is of meeting the child's needs

The range of powers available to the Court in the proceedings in question.

The Court will consider the above in the light of the evidence it has heard and read and also the recommendation of the Welfare Officer. The Court will always start from the presumption that there should be contact for natural parents, and the welfare of the child is the Court's paramount consideration.

If the Family Proceedings Court makes an Order it must give its reasons in writing stating why they have made that Order.

What is the "No Order" principle?

The Court **MUST** consider whether it is in the best interests of the child to make no Order where the arrangements have been agreed between the parties.

What does having a Contact Order mean?

A Contact Order will allow **the child** to have Contact with the named person. The Order may be "reasonable" or "defined".

Reasonable Contact means that the details of the Contact are to be agreed between the parties. It merely provides that there should be some form of Contact.



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Defined Contact sets out the details of the Contact such as days, times and places.

I don't know where my child lives - what can I do?

If you do not know where your child lives there are ways of obtaining this information from the DSS if the person with whom the child lives is claiming benefits. Alternatively the Court can Order that the child's whereabouts are disclosed by anyone who has that information. We can advise you fully about this if necessary.

I haven't seen my child for some time - how long will it take?

The Court will make emergency Orders, but only in exceptional circumstances. This is because the Court usually requires the situation to be investigated by the CAFCASS Officer (see above) before it makes a decision. However, if you believe that the child will suffer if Contact is not re-started, or the person with whom the child lives has stopped Contact for no reason you may be able to make an emergency application. We will advise you if the circumstances are such that you may be able to persuade the Court that an emergency application is required.

If you are not in a position to make an emergency application the proceedings can take anywhere between 2 and 12 months depending on whether the application is opposed and whether a Welfare Report is required. It can also depend on how busy the Court is at the time. If circumstances change during the case it may take longer. We will advise you in more detail about this.

What if I am not happy with the Order made?

In some circumstances you can appeal against an Order if the Court has made a mistake in Law or has not attached sufficient importance to evidence it has heard. We can advise you whether you have grounds for appeal. In any event there is no such thing as a final Order in such proceedings, and unless the Court has made a specific Order stopping you from doing so, you can bring another application at any time.

What happens if the other party refuses to comply with the Order?

If you are granted an Order and the person with whom the child lives will not allow you Contact or will not allow the Contact that the Order states, you can apply for enforcement of the Order. The type of enforcement depends on whether the Order was made in the Family Proceedings Court or the County Court, however, the ultimate sanction is imprisonment. We will advise you in more detail about this if it becomes appropriate.



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My former partner has said that I must go to a Contact Centre - what does that mean?

Contact Centres are places where Contact can be supervised. They are run by volunteers. Not all towns have Contact Centres, and some Centres are only open some of the time. We can advise you about availability and can make enquiries about Centres outside Coventry if necessary. Contact Centres are designed to allow parents who cannot have unsupervised Contact or who have not seen their child for some time to have Contact in a safe neutral environment. It is not designed to be a long term solution and should only be used for a short period of time.

Just because the other party says you must go to a Contact Centre it does not mean that the Court will Order this. We will advise you as to whether your circumstances are appropriate for a Contact Centre.

My former partner has said that my new partner cannot have contact with my child - can they do this?

If there is no Order in existence, the person with whom the child lives **can** dictate the terms of any Contact that takes place. If you are not happy with those arrangements, and correspondence from us does not resolve the situation, you can apply to the Court to deal with the matter. However, you should be aware that it is the child's contact with **you** and consider whether Contact on terms you do not like is better than no Contact at all. We will, of course, discuss this fully with you.

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If you need any further information about matters in this information sheet, please do not hesitate to contact us.