

Kids Come First®

Separated Parent Support Workshops

Why Parents Should Avoid Issuing Family Court Proceedings

Is it realistic for parents to expect the Family Courts to offer meaningful help and support for families who are experiencing the distress of their separation or divorce?

There are many important points to consider, whether you're the parent applying to the court for a child arrangements order or you are the respondent parent.

The vast majority of parents we work with report their experience of the court system (whether past or present) as a negative one. Here are some comments we've noted:

- "I found it really stressful representing myself"
- "It's been financially crippling and I still don't have the contact I hoped for"
- "I felt the whole process was completely biased and unfair - there's no equality at all"
- "It took far too long for me to get to see my children and now my contact is supervised"
- "My ex doesn't stick to our court order so I have to keep making new applications!"
- "My ex made so many false allegations about me! I'll never be able to trust them again"
- "The court order didn't cover all the issues and we were sent back to mediation"
- "Our hearings were often delayed and sometimes we didn't even get the same judge."

Relinquishing Control

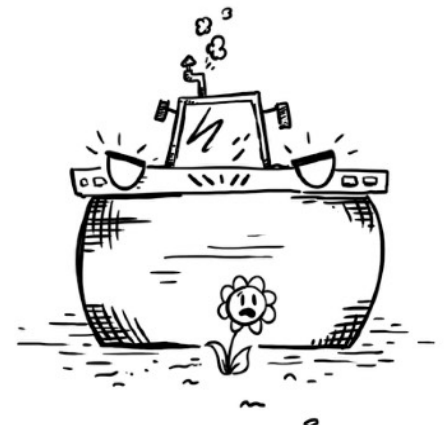
Separating parents need to recognise and appreciate that in bringing family matters before the Courts, they are, in essence, relinquishing 'control' of their family's future and thereby reducing their capacity to resolve their own parental issues. By handing over parental 'power' to a judicial system that is adversarial and combative in style, the risk is, that the court process may only serve to aggravate, and often escalate, the conflict between you.

Escalating Conflict

This conflict will not only take its toll on you personally but, as parents, it will reduce your capacity to support your children as you focus on all the legal proceedings. And it will impact on your children more than you can ever imagine. As they become more and more aware of the 'war' being waged between you, they will struggle to find the resilience needed to adapt and deal with your separation. Ultimately, the longer the conflict continues, the less they will feel able to express their thoughts and feelings and the more they will potentially end up feeling lost, confused, isolated and abandoned.

Allegations & Accusations

In an attempt to discredit each other as parents, former partners often 'paint' an entirely disapproving and negative profile of one other. Often there is a need to feel vindicated and play out the 'blame-game' in the court arena. Intractable and long-lasting disputes often arise as a direct result of further damaging allegations and accusations. Naturally, the court then has a duty to investigate these in safe-guarding children. Sadly, these type of 'tactics' or 'strategies' are often employed to withhold or restrict access to children. They usually only serve to encourage increased suspicion and parental mistrust. It's a destructive approach to dealing with an already very fragile system (your family) that can only be likened to driving a steamroller over an already shattered glass flower (your child). And in time, any malicious attempts to discredit, diminish or devalue the other parent may ultimately backfire as children make their own observations and judgements about whether you treat each other fairly.



Legal Advice

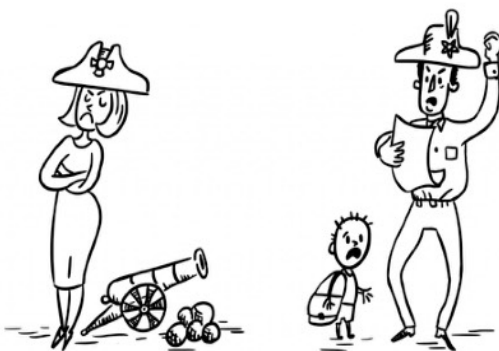
Whilst it is both recommended and essential to fully understand your legal rights and entitlements, parents should bear in mind that solicitors fight solely for their clients. In this respect any legal advice you receive does not necessarily take into account the needs of the whole family. For this reason it's important to choose your legal counsel wisely and where possible seek out a collaborative lawyer whose code of conduct is to try to minimise the conflict. Remember, you are paying for a service so the choice is yours. If you are not satisfied with the advice you receive, go elsewhere. It's also worthwhile doing some research of your own as the more knowledge you have, the more empowered you will be. And if recommended to go to court, think carefully and prepare well before entering a system that is highly likely to leave you mentally exhausted, financially depleted and emotionally battered.

Court Resources & Costs

Court resources are increasing sparse, particularly in the current Covid climate. The backlog in cases continues to grow with over 100,000 divorces in 2020. Long delays are now to be expected and it may be many months or typically, years before you have a resolution to your case. There is also no such thing as reasonably priced litigation: it costs money, and if you have a figure in your head, triple it and you'll have an idea of just how much you'll be out of pocket at the end of the process. It's worth bearing in mind all the potential benefits of saving your precious financial resources for starting your 'new' life & your children's future.

ADR (Alternative Dispute Resolution)

As we head towards a long-awaited change in the law and introduction of 'no-fault' divorce, the traditional contentious litigation process seems increasingly outdated. Although the 'true' purpose of the family court is to restore contact for a parent denied contact with their child (when no safeguarding issues apply) sadly, this is representative of very few applications. Too much court time is taken up with matters that parents should be capable of opening up dialogue about if focused on their children's interests - directly or in the mediation process. With so many collaborative options currently available, there is no good reason for parents not to seek out the specialist support they need. By making effective use of the expert guidance and innovative co-parenting 'tools' they can drive their divorce down a far gentler path.



It's not surprising then that family courts cannot always be expected to come to the rescue of a family who are shipwrecked out on an 'emotional sea' of hurt and despair. Judges are often required to make monumental decisions for families, sometimes having only met the parents briefly and in most cases, never even having met the children. How can they realistically be expected to satisfy the detailed requirements of a family whose lives they have little or no knowledge of? In most private law cases, rather than achieving a "win-win" solution, the impossible position of the court inevitably produces a "lose-lose" result, generating further resentment rather than fostering collaboration.

So how can this process ever really seek to create the positive foundation needed on which to build a successful future co-parenting model when parents, who are emotionally raw from separation end up thrashing it out in the courts? The courts can be very effective but cannot be the 'fixer' of all problems. Family situations and dynamics vary so greatly these days and everyone's situation is unique. By diminishing your own decision-making capacity as parents and blaming each other, you could find yourself unpleasantly surprised at the outcome.