

# Kids Come First®

## Separated Parent Support Workshops

### Why Parents Should Avoid Family Court Proceedings

At a time when families are experiencing the turbulence and stress of separation or divorce, is it realistic to expect the Family Courts to offer meaningful dispute resolution for parents? About 90% of parents in court proceedings find themselves consumed and overwhelmed by the adversarial, "combative" nature of the process. Many are financially crippled by ongoing litigation costs and yet ultimately disillusioned with the end result i.e. unsatisfactory Court Orders that do not cover all the issues. Comments we often hear are:

- "It's been incredibly expensive and I still don't have the contact I hoped for"
- "The whole process was completely biased - my ex made so many false allegations"
- "I found it really stressful having to represent myself and I didn't feel heard 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 court applications!"
- "Our court order was so vague and we were sent back to mediation"
- "The hearings were often delayed and sometimes we didn't even get the same judge!"

So, whether you are the parent applying to the Court for a child-arrangements order or you're the respondent parent, here are some important points to consider:

#### Relinquishing Control

In bringing family matters before the courts, separated parents need to appreciate that they are largely relinquishing control of their family's future childcare arrangements and 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, there is a real risk that the court process may only aggravate, and very possibly escalate, the level of conflict between you.

#### Escalating Conflict

This conflict will certainly take its toll on you personally in terms of negative emotional energy, financial cost and valuable time. As parents, it will also greatly reduce your capacity to support your children as you focus on all the complex legal proceedings. And it will impact on your children more than you can ever imagine! As they become increasingly aware of the 'war' being waged between you, they will struggle to find the resilience they need to adapt and deal with the emotional 'loss cycle' of 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 end up feeling lost, confused, isolated and abandoned. In cases where Cafcass (Child Advisory Services for Courts) are involved, children are subjected to welfare assessments for S7 reports and parents come under greater scrutiny.

#### Allegations & Accusations

Sadly, some parents seem determined to set out on a 'campaign' to discredit and negatively 'profile' the other parent. There is often a need to feel vindicated & play out the 'blame-game' within the court arena. The most intractable and long-lasting disputes arise as a direct result of ongoing allegations and accusations between parents. Of course, the courts have a duty of care to investigate any allegations that involve the protection & safe-guarding of children. There may be a deliberate intention to withhold or restrict contact between a parent & child. This adversarial 'strategic' position will certainly increase levels of parental mistrust, often putting an end to all vital parental communications. This is a highly destructive approach to dealing with a very fragile family system - like driving a steamroller over your 'sensitive seedling' child. Ultimately, any vendetta to diminish & devalue the other parent may backfire as your children are constantly observing. In time, they will make their own judgements about whether you treated each other fairly.



## Legal Advice

It is both recommended and essential to fully understand your legal rights and entitlements, but parents should always bear in mind that solicitors act ('fight') solely for their clients. Therefore, any legal advice you receive will not necessarily take into account the needs of the whole family. This is why it's important to choose your legal counsel wisely and consider instructing a collaborative family lawyer who will do all they can to minimise the conflict. Remember, you are paying for a service, so you should be 'in charge' of how you approach your separation/divorce. If you're dissatisfied with the advice you receive - look elsewhere. Doing your own careful research is advisable, especially as a LIP (litigant in person) as the more knowledge you have, the more empowered you will be. If recommended to go to court, think carefully and prepare well before entering a system that is inevitably going to leave you mentally exhausted, financially depleted and emotionally battered.

## Court Resources & Costs

Court resources are extremely limited with 45,000+ private law applications issued each year and as the immense backlog continues to grow, impossibly long delays should be expected. It may be many months, or even years, before you have arrive at a resolution to your case (the currently average to final hearing being 21 months). There is also no such thing as reasonably priced litigation: skilled lawyers & barristers cost significant amounts of money, and if you have a figure in your head, triple it! Then you'll have some idea of how much you'll likely be out of pocket at the end of the process. It's well worth bearing in mind all the potential benefits of conserving your precious financial resources for your future 'new' lives, your separate homes and your children's futures.

## ADR (Alternative Dispute Resolution)

Since 'no-fault' divorce was introduced in 2022, the traditional contentious litigation processes are now increasingly outdated. The best use of the family court is to serve and protect the needs & rights of children who are being denied contact with a parent without justification i.e. no clear and proven safeguarding issues or risk of harm. Sadly, an excessive amount of court time is taken up with matters that parents should be capable of sorting out themselves. The key is opening up a child-focused parental dialogue - directly or in the mediation process. New Family Procedure Rules in 2024 stipulate that parents must try to resolve their issues using NCDR (non-court dispute resolution) options before making court applications. More so than ever, there is now no excuse for parents not to seek out early specialist support and make use of the guidance available to drive their separation/divorce down a far gentler path.

In the current system, courts should not be seen as a place to 'air grievances' or expected to deliver family 'justice'. Judges are required to make monumental decisions for the families they deal with, having only brief contact with parents and, in most cases, never meeting their children. So how can they be expected to satisfy the unique and detailed requirements of so many families whose lives they have such little knowledge of? Court processes are a 'lottery' and provide no "win-win" solutions. Instead, the impossible position of the court inevitably produces a "lose-lose" result which generates increased parental resentment, rather than fostering future collaboration. The court is not 'family-friendly', nor is it an appropriate foundation on which to build a successful co-parenting model when parents become locked in adversarial battles. Courts can be effective at handing down specific orders but cannot be the 'fixer' of all problems. Family situations and dynamics vary so greatly and everyone's situation is unique. By diminishing your own capacity for decision-making and playing out a court 'blame-game', you could find yourself unpleasantly surprised at the outcome.

