

Advice and Information

Contacts ▶▶▶

Help and Counselling for Young People

Relate Teen

Belfast: 028 9032 3454
Derry: 028 7137 1502
Newry: 028 3025 2636

www.relateni.org
Email: office@relateni.org

Contact Youth

139 Ravenhill Road
Belfast
BT6 8DR

Youthline: 0808 8088000

Childline

24hr helpline for children and young people in danger or distress

Freephone Helpline: 0800 1111

www.childline.org.uk

Help & Support for Parents

Parents Advice Centre

Freephone Advice Line: 0808 8010722

www.pachelp.org

Gingerbread

Freephone Advice Line: 0808 808 8090

www.gingerbreadni.org

Mediation

Family Mediation NI

7 University Street
Belfast
BT7 1FY

Tel: 028 9024 3265

Useful websites:

www.familymediationni.org.uk
www.ukcfm.co.uk
www.nationalmediationhelpline.com
www.itsnotyourfault.org

Collaborative Law

www.afriendlydivorce.co.uk

Contact the Children's Law Centre for details of Collaborative Solicitors in Northern Ireland



This leaflet is intended as a guide only. If you have any further questions or require more detailed information or advice please contact:-

The Children's Law Centre

Philip House
123-137 York Street
Belfast
BT15 1AB

Tel: 028 9024 5704

Fax: 028 9024 5679

www.childrenslawcentre.org

Email: info@childrenslawcentre.org

CHALKY Freephone Helpline

0808 808 5678

CHALKY, Freepost BEL3837

Belfast, BT15 1BR

Email: chalky@childrenslawcentre.org

Disclaimer

The information provided in this leaflet is for guidance only and should not be regarded as a complete or authoritative statement of the law.

In all cases appropriate legal advice should be sought from a solicitor. The Children's Law Centre will not be held in any way responsible for the use of information in this leaflet by other individuals, organisations or agencies.

Other

"Do you know your rights?"

leaflets available from
Children's Law Centre



Do you know your rights about ...

Family Law



Separation & Divorce

Separation is when two adults who live together make a decision to end their relationship and live apart. Divorce is when two adults who are married make a decision to legally end their marriage. This leaflet will help to explain your rights if this happens in your family.

Step-Families

If one of your parents ends their relationship with your other parent and then marries or enters into a civil partnership with another person, this person will become known as your step-parent. You may have new brothers and sisters who will be your step brothers or sisters. This is common - there are over 14,000 step families in Northern Ireland.

Parental Responsibility

- Parental responsibility is defined as all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his or her property.
- A young person under 18yrs old can have parental responsibility. For example, if a young girl has a baby, she has parental responsibility for that baby.
- More than one person can have parental responsibility for you at the same time, for example, your parents, grandparent or step-

parent. They should all work together with you to make decisions in your best interests.

- Parental responsibility gives your parent/guardian the power to make decisions with you, about your life, like what school or doctor you attend.
- If your parents are married they both have parental responsibility for you. Even if they divorce they do not lose this.
- If your parents are not married the situation is more complex. Unmarried mothers automatically have parental responsibility but unmarried fathers do not unless you were born after April 2002 and their name is on your birth certificate. All unmarried fathers can now get parental responsibility by;

1. Being named on your birth certificate as your father
2. Signing a Parental Responsibility Agreement (this ends when you are 18yrs old)
3. Obtaining a Parental Responsibility Order
4. Obtaining a Residence Order
5. By being appointed as your legal guardian
6. Marrying your mother.

Counselling and Advice

Organisations like the Parents Advice Centre offer counselling, advice and support to parents. When parents separate or divorce, it is a very stressful time for everyone involved and often children's voices are not heard. However,

during this difficult time it is possible for young people and children to take part in family counselling. Relate NI offer this service. Relate Teen and Youthline are help lines that young people can contact if they need help or counselling on how to deal with the trauma of parental separation.

Mediation

This process involves a third party talking with both parents to negotiate a solution on issues that divide them. Often the focus will be on deciding about where children should live and making contact arrangements between the child and the parent they do not live with. You can become directly involved in some family mediation to express your views.

At the end of mediation both parents will sign a document called a Memorandum of Understanding which sets out the terms of the agreement. This document is not legally binding. Family Mediation NI offer mediation. There may be a cost for this service.

Collaborative Law

Alternatively, your parents may get help from Collaborative Solicitors to sort out details of their own separation, without going to court. Collaborative Solicitors are specially trained and assist each parent to draw up and sign a document called a Separation Agreement. This agreement will deal with financial and childcare arrangements for both parents.

COURT

Some cases have to go to court to be resolved. Most cases in relation to private family law proceedings such as residence and contact, start in the family proceedings courts in Northern Ireland. More complex cases are heard in family courts called Family Care Centres or the High Court. Solicitors and/or barristers represent the adults in these cases. It is possible in some circumstances to appeal a court's decision to a higher court.

Can I go to court?

Children and young people do not usually attend court. However if you feel strongly that your voice is not being heard, you can ask the Judge/Magistrate for permission to attend. The Judge /Magistrate would only allow you to attend court if you have sufficient understanding.

Contact Order

- This is a court order which sets out the arrangements for you visiting your parent or any other family member.
- Your parents and some other people can apply for a Contact Order.
- You can apply for a Contact Order if you have sufficient understanding.
- Contact may be for a number of hours

per day, overnight, for a weekend or part of the week. Contact arrangements are different in every case and the court must make an order that is in your best interests.

- The court may make an Order of Indirect Contact. This means you will not meet your parent regularly but should keep in contact through letters.
- In some circumstances the court can make a Supervised Contact Order if it would be in your best interests to have someone present during the contact visit. This may be a relative or Social Worker.
- Some contact takes place in Contact Centres. These are safe and comfortable environments where children and parents can meet, if there is no other suitable place to meet.
- The court can also make an Order of No Contact, if they believe it is not in your best interests to have contact with your parent. This is very rare.
- When parents separate, sometimes children do not all stay with the same parent and may lose touch. The court aims to keep brothers and sisters together but this is not always possible. If your brother or sister no longer lives with you and you are prevented from seeing them, you can apply for a Contact Order. If you have sufficient understanding a solicitor can apply for legal aid and make an application for a Contact Order on your behalf.

- A Contact Order lasts until you are 16yrs old or in some circumstances until you are 18yrs old.
- A Contact Order ceases to have effect if your parents later decide to live together for a continuous period of 6 months or more.
- No-one can force you to have contact with someone you are afraid of or someone who harms you. If you feel very strongly that you do not want to have contact with your mum or dad or any other adult, you need to explain the reasons why to someone you trust, for example your parent, teacher or social worker.

Residence Order

- This is a court order which states who you live with.
- If your parents cannot agree where you should live, they can apply to a court for a Residence Order.
- The Magistrate/Judge must take into consideration your wishes and feelings and look at all the circumstances of the case. He/she will decide where you should live and will base the decision on what is in your best interests.
- In exceptional circumstances, you can apply for a Residence Order, if you have sufficient understanding.
- In some circumstances, it is possible for residence to be shared between parents, this

is called a Joint Residence Order. This order will specify the days you live with each parent.

- If someone has a Residence Order for you, the court must also give parental responsibility to that person.
- If the case is being heard in a family proceedings court, a Court Welfare Officer (CWO) may be appointed by the Magistrate to prepare a report. The CWO may visit you at home and ask you questions about what is happening at home and who you want to live with. What you say to the CWO may be used in this report. The CWO will also talk to your parents.
- CWO's are not yet available in all courts. Where there is no CWO, a social worker will be asked to write a report.
- When a Residence Order is in force, a child cannot leave Northern Ireland for any longer than 1 month, unless the parent taking the child away, has the written consent of every person with parental responsibility or permission of the court.
- A Residence Order lasts until you are 16yrs old. However in exceptional circumstances it can be made until you are 18yrs old. A Residence Order ends if your parents live together for 6 months or more.
- If you become subject to a Care Order the Residence Order will end.

Non-molestation Order

- Your parent/guardian can apply to court for a Non-molestation Order. It might be necessary for a court to make a Non-molestation Order against someone if this person lives or has lived with you and uses threatening or abusive language or behaviour towards you, your parent, or family members.
- This is domestic violence and is against the law. No-one has the right to mistreat you. If you are experiencing domestic violence you can do something about it.
- If your parent applies for a Non-molestation Order, you may be named on the order if you are at risk of harm.
- You also have the right to apply for a Non-molestation Order in your own right if you are capable of understanding what is happening and are mature enough to give instructions.
- The Non-molestation Order will name the person you are afraid of and state that he/she must stop their abusive language and/or behaviour. If this person breaches the order, he/she has committed a criminal offence and can be arrested.
- In an emergency situation, you or your parent can apply for a Non-molestation Order very quickly without informing the other person. This is called an ex-parte order.

Occupation Order

- Your parent/guardian can apply for an Occupation Order. This order states who is allowed to live in your family home. An Occupation Order is usually made with a Non-molestation Order, which can exclude the person who is using threatening or abusive language and behaviour from your home.
- It gives added protection to adults, children and young people in a domestic violence situation.
- In certain circumstances, you can also apply for an Occupation Order with permission of the court. The court must be satisfied you have sufficient understanding to apply for the order.
- If a Non-molestation Order is made with an Occupation Order and the person named on the order breaches the terms of the order, the police can be informed and a warrant will be issued for their arrest.

Specific Issue Order

- Either parent can apply for a Specific Issue Order. This usually happens when parents disagree about the way they exercise their parental responsibility and feel strongly about how you should live your life. For example, which school you attend or what medical treatment you receive.

Prohibited Steps Order

- A parent/guardian can apply to court for a Prohibited Steps Order to stop the other parent from exercising their parental responsibility in a particular way without the consent of the court. For example, this could be to stop your parent sending you to a particular school or removing you from Northern Ireland.

Parental Responsibility Order

- A Parental Responsibility Order states who has parental responsibility for you.
- An unmarried father can apply for a Parental Responsibility Order. The court must take into consideration; the commitment your father has shown you, your relationship with your father and his reasons for applying for the order.
- A step-parent can also apply for a Parental Responsibility Order.
- The court must make a decision in your best interests.
- A Parental Responsibility Order usually ends when you are 16yrs old. However it can end when you are 18yrs old depending on your circumstances and the terms of the order.
- A Parental Responsibility Order can end if someone with parental responsibility feels this order is not in your best interests and applies to court to end the order.

- If you are of sufficient age and understanding you also have the right to apply to court to end a Parental Responsibility Order.

Order Directing an Investigation into the Child's Circumstances

- The court can order an investigation into your circumstances if during a court hearing concerns arise about your welfare. This order may direct Social Services to investigate your circumstances where the court thinks that a Supervision or Care Order might be appropriate.
- When considering whether or not to make this order, the Magistrate/Judge must make a decision in your best interests.

Child Assessment Order

- The court can make a Child Assessment Order which compels Social Services to assess your health, development and/or treatment to help the court decide if you are at risk. The court may make this order if there is reasonable cause to suspect that you are suffering or likely to suffer significant harm.

Emergency Protection Order

- In emergency situations where Social Services have reasonable cause to believe that you are at risk of significant harm, the court can make an Emergency Protection Order (EPO) and remove you

to a safe place.

- Once the order is made it lasts for 8 days and can only be extended once by the court.

Education Supervision Order

- If you are of compulsory school age (below 16yrs old) and are not receiving full time education suited to your age, aptitude, ability and any special educational needs you may have, the Education & Library Board can apply to court for an Education Supervision Order if you are not attending school.
- The Education & Library Board must give your parents 7 days notice of their intention to apply for an Education Supervision Order. The application is made to the Magistrate's Court. Before the Education & Library Board can apply for an Education Supervision Order, they must satisfy the court they have taken all reasonable steps to get you to attend school and an Education Supervision Order is the last resort.
- If an Education Supervision Order is made, a Supervising Officer will be appointed to ensure that you are educated. The Supervising Officer will befriend, support and advise you and your parents.
- An Education Supervision Order will be appropriate if you have developed a pattern of poor attendance at school and

your parents have little control over you. A structured programme of work will be put in place and the Education and Library Board and your parents will work together to ensure you return to school.

- The Supervising Officer may require your parents, for example to attend meetings with teachers to discuss your progress. This could include discussion about medical treatment or examination or assessment by an Educational Psychologist. Persistent failure by your parents to follow these directions is a criminal offence.
- The Supervising Officer will explain these directions to you. The Officer should confirm the directions to your parents in writing and explain that they must comply with them and that if they fail to comply it is a criminal offence.
- Your parent/guardian could be prosecuted for your persistent failure to attend school and may also be fined.
- If the situation does not improve and your parents continue to disregard the Supervising Officer's directions, Social Services may carry out an investigation into your welfare and ultimately apply to court for a Care Order.
- If you are already under a Care Order, Social Services have parental responsibility for you. They must ensure you attend school full time and receive a suitable education. If you are not attending school,

the Education & Library Board must consult with Social Services to encourage you to attend school.

- An Education Supervision Order ends after 1 year. However if you are progressing well and attending school full time then either you, your parents or the Supervising Officer, can terminate the Education Supervision Order before this time.
- In exceptional circumstances an Education Supervision Order can be extended for up to 3 years, if the Supervising Officer feels this is necessary. An Education Supervision Order ends once you are over compulsory school leaving age (16yrs old) or if a Care Order is made.
- Some courts have the power to appoint a guardian for you if there is no-one with parental responsibility or the person who had a Residence Order for you has died. If you are subject to a Care Order, Social Services may apply for an Order appointing a guardian and name another family member as guardian.
- Guardianship ends automatically when you reach 18yrs old. However it is possible to end guardianship before your 18th birthday in certain circumstances.

Order Appointing a Guardian for the Child

CSA

- The parent you live with should receive financial help from the other parent to pay towards food, clothes etc. If your parents cannot agree on the amount, a government agency called the Child Support Agency (CSA) calculate and oversee the payments.
- The amount your parent pays, depends on how much he/she earns. If he/she refuses to support you, the CSA can force them to contribute.
- In certain circumstances it is possible for the parent you live with, to apply to court for financial help from the other parent. The application can be made if you are a step-child, a child with a disability or if your parent is a high earner. The parent you live with can apply to increase these payments, to top up an existing assessment made by the CSA.
- It is also possible for someone over 17yrs old to apply to court for a maintenance order payment against either or both parents. This may be necessary if you need financial assistance to attend university or undergo training for a trade, profession or vocation.

CHANGE OF NAME

Every child born in Northern Ireland has their birth registered by their parents at the General Register Office and then

receives a birth certificate stating their name and details. Any person born or legally adopted in Northern Ireland can apply to the General Register Office to change their name at any time.

- If you are under 18yrs old and want to change your name you must have the consent of everyone with parental responsibility.
- If one parent disagrees he/she can make an application to court for a Specific Issue Order and the court will decide whether it is in your best interests for your name to be changed.
- If you have sufficient understanding, you can apply for a Specific Issue Order to change your name.
- If you want more information on how to change your name and the procedure to do so, you can contact the Children's Law Centre for further information.

CAN I HAVE MY OWN SOLICITOR?

- It is not possible at the moment for children and young people to have their own Solicitor in the family proceedings courts, in cases which have been taken by adults. For example, if a residence case is going on about where you will live, you are not able to ask a solicitor to represent your views in court. Your views are put before the court by a Court

Welfare Officer or a Social Worker.

- However if the case is moved to a higher court, it may be possible for you to have your own Solicitor. This person is called the Official Solicitor. He/she will represent you and safeguard your best interests in the High Court or Family Care Centre.
- The court will only appoint the Official Solicitor to represent you in exceptional or difficult circumstances, for example, in cases

where there are serious allegations being made about physical or emotional harm to you or where you are totally refusing contact with either of your parents.

- Sometimes if you have sufficient understanding, you can instruct a solicitor to take a case yourself. For example to make a residence or contact application.
- You can contact the Children's Law Centre for further information on separate legal representation.