

JOHN HODGE SOLICITORS: LEGAL GUIDESHEET – Children and Separation

What are my rights as a parent?

Rather than considering the 'rights' of parents, family law talks of 'parental responsibility' for a child. A mother always has parental responsibility for her child. A father has parental responsibility for his child if:

- he is married to the child's mother when the child is born
- he marries the child's mother
- his child was born after 1 December 2003 and he is named on the birth certificate when the child's birth is registered
- his child's birth was registered before 1 December 2003 and he was not named on the birth certificate but the birth is re-registered to include his name with the mother's consent
- he has a parental responsibility agreement with the mother
- he has a parental responsibility order from the court
- he has a residence order from the court
- he becomes the child's guardian

The Children Act 1989 is the main piece of legislation dealing with family disputes about children.

In family law, what used to be called 'custody' and 'access' or 'residence' and 'contact' are now referred to as 'Child Arrangement Orders'. The Children Act says that the child's welfare is the paramount consideration when the courts consider any question in relation to the upbringing of a child and the court will apply what is known as the 'welfare checklist' to help it work out what's best. Unless the contrary is

shown it will also presume that the involvement of both parents in the life of any child will further the child's welfare.

The welfare checklist looks at:

- The child's wishes and feelings, considered in the light of his/her age and understanding
- Their physical, emotional and educational needs
- Their age, sex, background and any characteristics which the court considers relevant
- The likely effect of any change in the child's circumstances
- Any harm which the child has suffered or is at risk of suffering
- How capable each parent is of meeting the child's needs

An independent Child and Family Reporter (CAFCASS officer) may be asked to meet with the family and produce a report to help the court decide. The court will not make any order relating to a child unless it is satisfied that it is in the child's best interests.

Most family disputes can, however, be resolved without using the courts and **John Hodge Solicitors** as Resolution members can help you to make suitable arrangements while ensuring that the welfare of the children comes first.