



**ADVICE FOR CHILDREN
WHOSE PARENTS
ARE SEPARATING**

Hello,

If you're reading this, it may well be that your parents have decided it is best that they don't live together anymore. If that happens they may need support from someone like us, family lawyers (or "solicitors" as we're also known), to help them figure out what things will look like for your family after they separate. Adults often need help with this as there is a lot to think about.

We know that you will have a lot of questions too. In this document we have tried to answer some of the questions children have asked us previously, in the hope they will help you understand some of the things you may hear your parents discussing. We also explain why they are likely to want to hear your views too.

What is a divorce?

When two people are married or have what's called a civil partnership, they have made a legal promise to stay together but things may change and it can become difficult to keep that promise. When that happens they separate and some parents go through something we call "a divorce". This means that they have to end the marriage or civil partnership legally, using a process set out in our laws.

Getting divorced has many implications for how the family are going to arrange things going forwards – be that their finances or the logistics of who will live where and with whom. That is what family lawyers spend most of their time helping with.

Why might lawyers be involved?

As we mentioned above, when people separate there are a lot of things to consider. Family lawyers have helped lots of people in a similar position, and it can be helpful for adults to take advice from someone with this experience.

Sometimes parents would like to speak to a family lawyer together. If this is the case, they might employ someone like us as to act as a mediator. We will explain more about that below.

Often each parent may choose their own lawyer. This means they can speak to us privately about any worries they may have, we can advise them on what we think is best and, if they don't feel comfortable speaking to the other parent about these matters, we can speak to them or their lawyer instead.

Sometimes parents might do both – work together with a mediator and have their own lawyers giving advice in the background.

In each of those scenarios, our job as a family lawyer is to help the adults to work out all the changes that will need to be made and enable them make decisions. For example, where is each parent going to live? What will happen to their bank accounts and possessions like cars? Will one parent need extra money, day to day, to cover the expenses of the family home and the things their children need? Following separation children are likely to have two places to live and some parents can't agree how much time their children should spend with each of them so lawyers help them with these decisions too.

How does the lawyer work with each parent?

If both parents choose to have lawyers, we work with the other parent's lawyer to try and help them agree all the arrangements, focussing on what is right for the whole family and particularly for their children.

This can take time as many adults are angry or upset as their relationship or marriage has broken down. Just like children who have fallen out with their friends, adults often feel angry or sad when they split up with their partner and these strong feelings can stop them thinking clearly and making good decisions. A good lawyer's role is to point out that sometimes what they think they want isn't actually best for the children or for the family in the long run.

We always tell parents that it's much better if they can listen to their children to find out what they want, but at the same time try and protect them from any anger and upset between their parents. Parents may divorce each other but they don't divorce their children and will hopefully continue to work together as parents. This is known as "co-parenting" or "co-operative parenting".

What is a mediator?

A mediator sits down with both parents, not just one of them, and together they have conversations about you (their children) and money issues to help them agree on those decisions. They also explore how they can work together in the future to decide what's best for you and how they can communicate in a better way. The mediator is impartial, meaning they don't "take sides".

In some situations, the mediator might speak to you too. This is called "child-inclusive mediation" and it is something you and your parents can agree to with the mediator if you are happy to participate and everyone agrees it is the right thing for your family. We talk a little bit more about ways in which children's views will be considered, in mediation or otherwise, further below.

Why might a court be involved, and what does it do?

Most separating parents will never need to go to court, and will agree the money and children arrangements before either between themselves, in mediation, or with their lawyers. In law both parents have what's called 'parental responsibility' which means in the eyes of the law the parents are equal and should be making important decisions about the child's life together, for example which school the child attends.

Even if a court is involved at some point, parents are still encouraged to work together (for example in mediation) to make decisions. But if parents really can't agree what should happen, either in relation to their children or their finances, a judge will make the decisions that need to be made for them. In all decisions child safety and their best interests is the most important thing that the judge considers.

There are lots of different types of courts and judges and there are specialist ones that only deal with families such as divorcing couples and parents. They are very different from the kind of courts that deal with crimes, which you might have seen on the television. The family court is just a room with desks and chairs and a family judge (who does not wear a wig!), but it is nevertheless a room where really important decisions are made.

Will my views be taken into consideration?

In all the different ways that parents sort things out (whether they resolve things themselves, go to mediation or go before a judge) the children's wishes and feelings are really important – in fact, it is a really important part of our law. The older the child is the more important their views are.

It's also OK if the child isn't sure what it is that they want or if they would prefer not to say. But if they do, they will be listened to. It's a bit like a jigsaw, there are lots of different pieces that need to be put together before a decision is made, and the jigsaw can only be completed once one big piece of the jigsaw, the child's views (especially the views of older children), has been considered.

How will my views be heard? Who do I need to speak to?

Obviously, you can always speak to your parents and say what you would like to happen. But sometimes children feel really torn when their parents ask them about their views – maybe they don't know what they want or they don't want to upset them with what they say. So often it helps for children to speak to someone separately.

These days many mediators meet with children if they are old enough and, if they would like to, to find out what they want. For parents, hearing from the mediator what their children have said can really help them agree what is best for them.

Sometimes we encourage parents to consult with a child therapist who can also meet with children and listen to their feelings and concerns. We know some wonderful child therapists. This therapist isn't there to judge the child in any way at all – their focus is just on helping children whose parents are separating and enabling them to have some space to express their views freely.

In a court situation, a child doesn't usually see the judge themselves but an adult (a bit like a child therapist or mediator) meets with the parents or any other important person in a child's life (such as teachers, grandparents or child minder) and then reports to the court what he or she thinks should happen. It can really help the judge to hear from another person who is not on anyone's side but whose job is to only think about what's best for the child.

What if I don't know what I want to happen?

As we mentioned above, there are lots of different people who can help children if their parents are separating.

It is also important to remember that children will never have to make the decision of how much time they spend with each parent - that is the parents' decision or, if they can't reach agreement, a judge's decision. It is just important that, if you do have an opinion, you have the chance to express it and have it taken into consideration.

What if me and my siblings want different things?

It is very normal for the children in one family to have different views as to what they want. They may be different ages, have a school or friends closer to one parent's house than the other, or simply a different opinion as to what would be the best outcome for them. That is fine and, if a judge is involved, something that will be considered by them. In almost all cases, the judge will decide what would be best for all of the children as a whole, rather than splitting up brothers and sisters who disagree what should happen. That is very rare.

What is the situation if one of the parents moves to a different part of the country or abroad?

We have already mentioned that parents share "parental responsibility" which means that, if one parent wants to move to another part of the UK or abroad, they need the other parent's agreement before moving with the child. If the parents can't agree, they will have to ask a judge to consider what the fair outcome is, first and foremost taking into account the child's best interests.

How will I spend my time each week? Which parent will I live with?

This depends on what your parents or, failing that, a judge, decides is best for you and your family. There are no formal rules saying that you will, for example, (i) spend 50% of your time with one parent and 50% with another; or (ii) weekdays with your parent and weekends with your other parent. It will all depend on what works best for you and your parents taking into all kinds of factors – your wishes, where your parents will be living, proximity to schools, parents' working arrangements, etc. It really will all depend on the circumstances of you and your parents. What we can say is that in most cases it is really important for you to spend time with both of your parents.

What about holidays? Do parents take it in turn?

When they agree the future plans for the children it is normal for parents also to agree how holidays are going to be divided. For many parents they share the holidays equally so split up the summer holidays, for example two weeks each throughout the long holiday and take it in turns to have Christmas or New year. But for other parents, especially if one of the parents is working and the other isn't, they may agree it's better for the child not to divide the long summer school holidays equally. And for some parents who get on reasonably well they decide to spend important days together such as Christmas day or birthdays - a lot depends on how they have resolved things.

What about seeing other relatives like cousins and grandparents, or going to stay with them for sleepovers?

When parents are living separately it's up to each of them to decide what to do with their children in their own time and they usually don't need to ask permission of the other parent for normal day to day things like seeing other family members such as cousins and grandparents. Ideally for the child, both parents remain friendly with the other parent's wider family like grandparents, but that isn't always possible.

What if you don't want to see one parent?

Some children don't want to see the one parent at all, or for different times than their parents agree or suggest.

Sometimes children can get involved in their parents' arguments or they may see for example that one parent is upset by the other parent's behaviour and sometimes that affects how much the child wants to see their other parent. Sadly, just like children, adults can be hugely affected by all the stress and unhappy feelings when their marriage or relationship breaks down. They find it difficult to hide their emotions from their children even if they try, and sometimes children hear things that they shouldn't such as nasty things about the other parent. This can mean they feel really caught in the middle of the conflict that's going on.

It is important to speak up to one or both of your parents if you can and let them know why you are unhappy with the arrangements and what you would like to happen. Hopefully you can then all agree something you are comfortable with.

However, while children's views are very important, children aren't free to decide what they want. Like many things in life, there are lots of rules that parents have that children will disagree with! What is important is that a child's views are heard and considered.

If you can't speak to a parent, you should speak to another trusted adult like a teacher, teaching assistant or a friend's parent. At some point you may also be able to speak to a child therapist or mediator. Many schools provide a school counsellor.

These days, more and more people, including the lawyers and the judges understand the importance of listening to the child but if a child is not feeling listened to by any trusted adult and is struggling they should also reach out to the [NSPCC](#) or [ChildLine](#). Their numbers should be available at school or can be googled.

How long do the arrangements last? Can they ever be changed?

As children's needs and wishes change as they get older, the arrangements should be reviewed as well. For example the needs of a baby and how much time they should be apart from each parent is very different to an 11 year old; or a child may move school which changes who can do pick-ups. So nothing is set in stone, and ideally parents will work together to adapt the arrangements, possibly bringing in help if they need it from a child therapist or mediator, reverting to the court only where necessary.

Final words of advice

The end of a marriage or parental relationship causes lots of emotions and children may well see their parents angry and upset which can be really worrying. But children must not feel it's their job to make their parents happy. Parents have other grownups to help them and a child's job is just to be a child and focus on things that make them happy. It is certainly not their job to look after their parent.

If children don't feel they are getting enough support or attention from their parents who may not be acting in their normal way and, if they feel brave enough, they should tell their parents of their worries and concerns. If this is not possible then they should feel able to speak to another adult they trust.



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