



Planning for Your Children's Future

Separation Information Pack

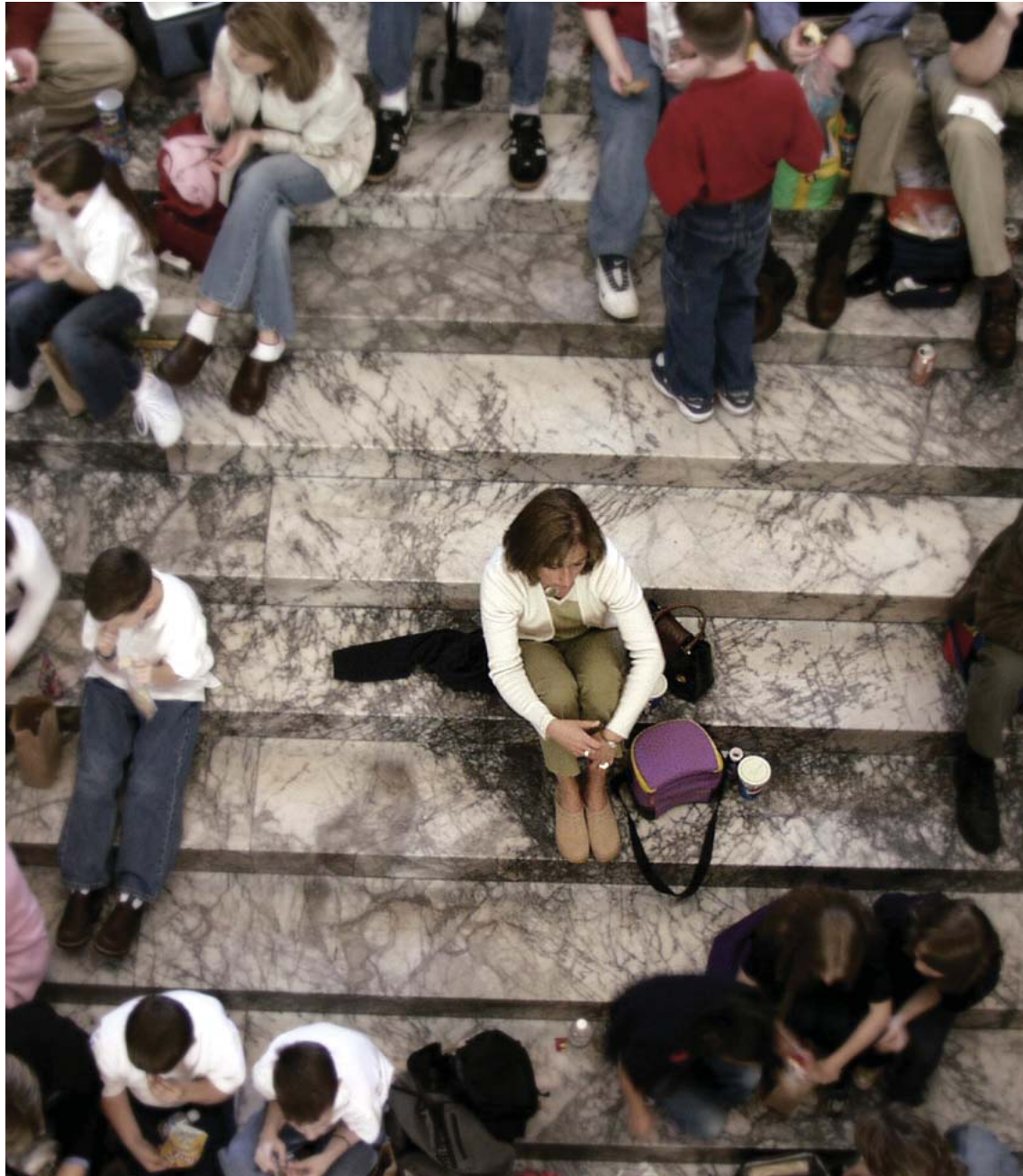


This leaflet, produced by National Family Mediation, can be used to help:-

- Couples contemplating separation who need to sort out future arrangements for children, housing, finances, etc.
- Group leaders delivering parenting courses for separating or divorcing parents or delivering 'divorce experience' courses
- Separated or divorced couples who want to make their parenting arrangements work.



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The Adult Experience

Marriage and partnerships can be strong bonds so it is hardly surprising that the effect of breaking those bonds can be devastating. We may not have expected it, meant it to happen or have been able to prevent it.

Losing an Adult Close Relationship

...takes away part of ourselves, just as much as any other loss. It can shake us to the core, making us behave uncharacteristically because the centre has fallen out of the lives we had constructed.

We may yearn for and miss the daily closeness of a continued exchange of experience and feeling.

We may feel and appear not to be the same people we were for quite a while.

It may be a shock to find relief as well as pain.

Marriage/relationship breakdown can produce:-

- *Anger*
- *Fear*
- *Rejection*
- *Guilt*
- *Hurt*
- *Pain*
- *Grievance*
- *Relief*
- *Confusion*

It is like Bereavement

...but it has none of the comforts of bereavement. There are no funerals, customs, support, no sermon valuing the person gone and nurturing the one left behind.

The family members may feel different things at different times. The one who is leaving may feel different from the one left and children feel a mixture of things, often unable to say or know how they feel.

AND YET, parents have to make decisions and be parents even when thrown off balance and in turmoil.



Notes:



The Law

Here is a very brief outline of the law in relation to Divorce, Children, Finance and Property, Domestic Violence, Cohabitation and Civil Partnerships.

Divorce

You can get divorced if you have been married for one year. The only “ground” for divorce is that the marriage has irretrievably broken down. However, to prove that to a court you need to be able to rely on one of the five “facts”:

Adultery

This is if your spouse has had an affair and you find it intolerable to live with him/her.

Unreasonable Behaviour

This is when your spouse has behaved in such a way that you could not reasonably be expected to continue to live with him/her.

Desertion

This is rarely used but is based on your spouse leaving you without agreement or good reason for two years or more.

2 Year Separation

This can be used if you have lived apart from each other for two years or more and your spouse consents to the divorce.

5 Year Separation

If you have lived apart for 5 years or more you can apply for a divorce even if your spouse does not agree.

The first two facts do not involve waiting a period of time and are often referred to as a “quickie divorce”. The process in fact takes the same length of time which is usually about 6 months from the date divorce proceedings are issued until the date of the final decree.

When you do get a divorce the court will be able to make orders about financial and property matters too if one of you makes an application.

If you have children you will need to fill in a detailed form about your children’s circumstances and the arrangements you have both made for them.

Usually you do not need to appear in court personally to get a divorce.

The office at your local County Court will have leaflets to help you and the necessary forms to complete (forms can be downloaded from www.hmcourts-service.gov.uk). Alternatively a solicitor will be able to help.

NFM family mediation services can help you work out arrangements for the children and/or finance and property.

Children

The Court has wide powers to make orders in relation to children but the most common when parents separate or divorce are as follows:

Parental Responsibility

A person who has parental responsibility has the right to be involved in major decisions concerning arrangements for a child. A mother automatically has parental responsibility – as does a married father. An unmarried father will have parental responsibility if the registration of the birth took place after 1st December 2003 and the father is named on the birth certificate. If not, he can acquire parental responsibility by entering into an agreement with the mother or by order of the court.

Residence

A residence order sets out the arrangements as to the person with whom a child will live. It can be shared between two people so the children, in effect, will have more than one place they can call home.

Contact

A contact order requires the person with whom a child lives to allow the child to visit or stay with the person named in the order or to have contact in some other form. Contact can be direct (visiting/ staying) or indirect (letters/emails/ presents).

Contact with his/her natural parents is regarded as a fundamental right of the child and there have to be strong reasons for a court to refuse contact.

www.hmcourts-service.gov.uk



Finance and Property

On marriage breakdown dividing up your finances and property can be very complicated. Your circumstances will be unique and it is important to take independent legal advice. The court has power to make a number of different orders: spousal maintenance, lump sums, property adjustment orders and pension sharing orders. The court does not usually make orders for child maintenance but if no agreement is possible between you the Child Support Agency/ Child Maintenance and Enforcement Commission will become involved.

If you are unmarried the court will apply property law to any property owned by you or to which you may have an interest. If you have children capital orders can be made under Schedule 1 of the Children Act 1989.



Domestic Violence

If you are experiencing domestic violence it may be necessary for you to obtain protection by applying for an injunction. The Government definition of domestic violence is: "any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been in a relationship together, or between family members regardless of gender or sexuality."

There are two different types of injunction under the Family Law Act 1986: non-molestation injunctions forbid a person from doing certain things such as being violent and occupation orders can remove someone from the home.

This is another complex area of the law and you should seek legal advice.

Cohabitation

The law relating to couples who live together is quite complicated. If you own property together in your joint names, or if you have made a contribution towards a property that is in your former partner's name, you should check your position which is based on strict property law.

There is little provision for other capital or property adjustment and former partners cannot apply for maintenance for themselves no matter how long you have lived together.

If you have children, child support is payable by the absent parent. Sometimes it is also possible for an application to be made under section 15 and schedule 1 of the Children Act 1989. These provisions give the court powers to order modest lump sums for a child and, possibly, a transfer of property order for the benefit of a child, which often reverts to the paying party upon the child's majority.

Further information can be obtained from our fact sheet entitled "Unmarried Couples" or visit:

www.communitylegaladvice.org.uk

Civil Partnerships

If a civil partnership has broken down it can be brought to an end by dissolution (based on the same facts as a divorce apart from adultery). The courts also have wide powers to make provision for financial relief that corresponds with what is available upon the breakdown of a marriage.



Family Mediation

Family mediation is a way of making your own decisions during separation or divorce. It is quicker and MUCH less expensive than the traditional court and legal process. It is less stressful and produces better outcomes for you and your family.

Process

Family mediation helps couples who have decided to separate or divorce make decisions for the future. With the help of an impartial mediator couples find ways to communicate better and reduce conflict between them.

A mediator will check to see if mediation is the right way forward for you and to see if you are eligible for public funding.

When you start mediation you will have a joint meeting with your ex-partner. It may take two or three meetings before you and your ex-partner reach an amicable decision.

Issues

You can choose to talk about:-

- *separation and/or divorce*
- *arrangements for your children*
- *maintenance for your children*
- *the house and other assets and where you will live*
- *income and expenditure for the future*

The mediator helps you to exchange views and information thoroughly before you reach your decisions.

LEGAL ADVICE is encouraged to be sure that what you both want to do is in each of your interests.

Principles

Mediation is:-

- *Voluntary*
- *Confidential*
- *Privileged – courts will not want to find out what you said, only what you agreed.*

The Mediator is:-

Impartial, even handed. They do not take sides.

You:-

- *State your own views*
- *Listen and are heard*
- *Retain your dignity and self respect*
- *Consider your children carefully*
- *Make your own decisions*

Mediation is not:-

- *Counselling you about your relationship*
- *Lawyers negotiating for you*
- *Courts deciding for you*
- *Therapy for your family*

If either or both of you think there is a chance of saving your relationship, the mediator will explore this and refer you for relationship counselling, if you are willing to attempt a reconciliation. Divorce counselling may also be available.

How to Use Your Solicitor in Mediation

Mediators are able to provide legal information but cannot advise. It is often important to ensure that you have the benefit of legal advice during and/or after mediation.

If you are negotiating financial issues it is helpful if you receive advice before options are considered. Between sessions you may also wish to show your solicitor details of any proposals that have been made, so that if any fine tuning is needed, any further discussions can take place at the next session before the final paperwork is prepared.

At the end of the mediation process the documents prepared by the mediator, whether an outcome summary or a memorandum of understanding, are not legally binding until they have been turned into a legal document.

It is particularly important following finance and property mediation to ensure that an agreement/ draft order is prepared so that all the claims you have against each other

can be dealt with and neither of you can reopen financial issues (save possibly for a variation of maintenance or child support) at a later date.

If you are having difficulties in finding a solicitor either the mediation service may be able to provide you with a list of specialist family solicitors in your area or you could contact Legal Services Commission to find a family law solicitor in your area. www.legalservices.gov.uk



Seeking advice from solicitors between mediation sessions can be positively helpful

When clients are going through mediation solicitors should:

- *assist clients to provide disclosure where necessary and assess the disclosure which takes place in mediation;*
- *give advice about settlement proposals as and when required, bearing in mind the long-term interest of clients and/or any children;*
- *give advice about other options;*
- *bear in mind the cost of mediation as opposed to negotiation through solicitors or court proceedings;*
- *give advice about any untenable positions either clients or their partners may be adopting; and*
- *assist clients to reach a decision and encourage clients to raise issues in mediation as appropriate.*



Including the Children

In mediation, you are regarded as the experts on your children. You both know them better than anyone else, and will have valuable knowledge and information about their needs, wishes and views.

Parents Including their Children in Mediation

The mediator will help you consider relevant issues which might affect your children, for example:-

- *when you are apart*
- *when forming new relationships*
- *in a step-family*
- *big changes to their routine, school, friendships.*

You might decide it is important for your children to be offered the choice of meeting the mediator and expressing any wishes and views to them directly. This will need both parents agreement.

Our experience and feedback tells us that when children are included in the mediation the parents identified the following benefits:

- *Improved emotional well-being – children were perceived by parents to be happier and less angry. Improvements in behaviour were also reported.*
- *Communication – parents felt that children had become more communicative and ‘opened up’ about their emotions; parents felt that communication with their children had improved*
- *Understanding – children had a better understanding of the family situation.*



Mediators Consulting Directly with Children

Quite often, children find it hard to express their views within the family especially when they think it might cause more conflict. Research tells us they don't want to choose where they live or who they live with – they want their parents to make those decisions but they need information about what is happening and they may wish to be consulted before a decision is made final.

Mediators can act as a neutral third party, helping parents come up with ideas and helping children express their views. Mediators make it very clear to children that whatever their wishes are, it is up to their parents to make the decisions.

Children tell us that the 'being asked' is sometimes more important than whether or not they have something to say.

Listening to Children

Sometimes, feedback from children is very painful to hear and sometimes it is unexpected. Parents need to prepare for this and to have talked together about what to do if children's messages are a surprise. A mediator can help you talk these things through.

The consultation with children is confidential and the children decide what messages are fed back to their parents and whether or not they want to be present at the feedback.

Your children are safe in the mediator's hands. All NFM mediators who meet children are:

- *Specifically trained to undertake this work.*
- *Are CRB checked.*
- *Work within all Local Authority safeguarding procedures.*



Parenting After Separation and Divorce

Establishing a co-operative relationship in which children can move between parents happily and with confidence can be difficult. For separated parents, it is different; their relationship may have ended but they continue to be parents. Children do best when they have regular contact with both parents and are able to maintain some continuity in their lives at a time of change.

Parenting Plans

Some of the things that need to be considered are:-

- *Where and with whom will the children live?*
- *How much contact will they have with the other parent?*
- *Where will it happen?*
- *How often?*
- *For how long?*
- *For weekends? For weekend days? In the week?*
- *On the telephone?*
- *Overnight stays?*
- *Holidays? Christmas? Birthdays?*
- *What about other relatives?*
- *School?*
- *Religion?*
- *New partners?*
- *Will the children always be together or can arrangements be made for each separately?*
- *What about change and flexibility?*

Business-like Parenting

Devising a plan can help you to become “business-like” in your relationship with each other. You can concentrate on what you can agree for the children, not on your arguments. Once arrangements have been agreed, it is often helpful to write them down. This sets out a framework for parenting which is clear since it is on paper and can be shared with your children.

Visit www.nfm.org.uk for a sample Parenting Plan or visit www.cafcass.gov.uk/publications/leaflets_for_adults

Explaining to Children

Part of your parenting plan may include explaining to the children what is happening, for example:-

“We agree to tell the children that

- *we have agreed to separate (even though one or other may not want it)*
- *we're sad*
- *it's not your fault and we don't blame you*
- *we both still love you*
- *we will always be your parents*
- *we, your parents, are talking to each other to make arrangements for seeing you*
- *we both want to share as much time with you as possible*
- *we don't want you to choose between us*



So...we have agreed for the time being that you will.....”

And then you can write down your plans.

Your plan may simply be a calendar on the fridge in each home and regular telephone calls. Or you may want a longer, more formal document.

Most reassuring for children is to have parents who can make business-like parenting arrangements so that despite their separation, there is a clear sense for them of belonging to this family, these parents.

Notes:



Being Single Again and Becoming a Step Family

Life in the future will irrevocably change but this does not mean changed only for the worse.

Being “single again”

There are two ways of being “single again” parents – having the children with you or not having the children with you. These two experiences are widely and deeply different. Finding language for the experiences is difficult. Whether you are a “lone parent” or a “parent with care” or “non-residential” or “visiting parent” or “absent parent”, you are not likely to want to be called by any of those titles.

On Your Own with the Children

- *About 22% of all families with children have only one resident parent, and the majority of parents on their own with children are women.*
- *Three quarters of men living on their own with children, have jobs and have to employ childcare.*

- *About half of the women living on their own with children, have jobs and have to employ childcare.*
- *Men and women in this situation have to find a balance between working and being at home for the children.*

These figures give a hint of how hard life can be on your own with the children, whether you are a man or a woman, finding enough money to run two households can be tough.

Research shows that parents who can work together after separation have a shared understanding of their children's needs and are much more likely to share their wealth for the benefit of their children. CMEC (Child Maintenance and Enforcement Commission) Options service encourages parents to make voluntary financial arrangements as it recognises the value of a shared agreement.

If you can achieve the following, you will do well and so will your children:-

- *practical support from friends and family*
- *enough income*
- *co-operation with the other parent*
- *some time for yourself*
- *reasonably good health*

Not Living with the Children

Co-operation over arrangements for the children can do much to keep the parent not in the house stay close to the children in every day living. That usually requires

staying weekends and holidays or a “popping in” relationship. If the children can feel at home in your home, that is the best outcome for everyone. However, that requires:-

- *good communication*
- *having enough space in the house*
- *having time*
- *living close by*
- *having enough money to travel or taking the children out.*

If you have all of these, you will do well and so will your children. If you are without any of these, you may struggle.



Remember, Contact Centres can be a good option if it is not possible to meet the other parent or to have the children come to where you are living, especially as a temporary arrangement.

Step Families

It is estimated that there are over 2.5 million children living in full time stepfamilies in Britain. A similar number will be in part time stepfamilies.

Many children belong to two stepfamilies and have gone through transitions from a ‘single again’ family to a stepfamily. Experiences are different for each person in each family, yet all are happening at the same time.

Adults will know that they want:-

- *space to themselves*
- *time for each relationship*
- *the ability to live in a lot of relationships at once*
- *comfortable links with their previous family.*

Children, of course, want the same. Sometimes they take to the changes more easily than the adults and sometimes they find it harder.

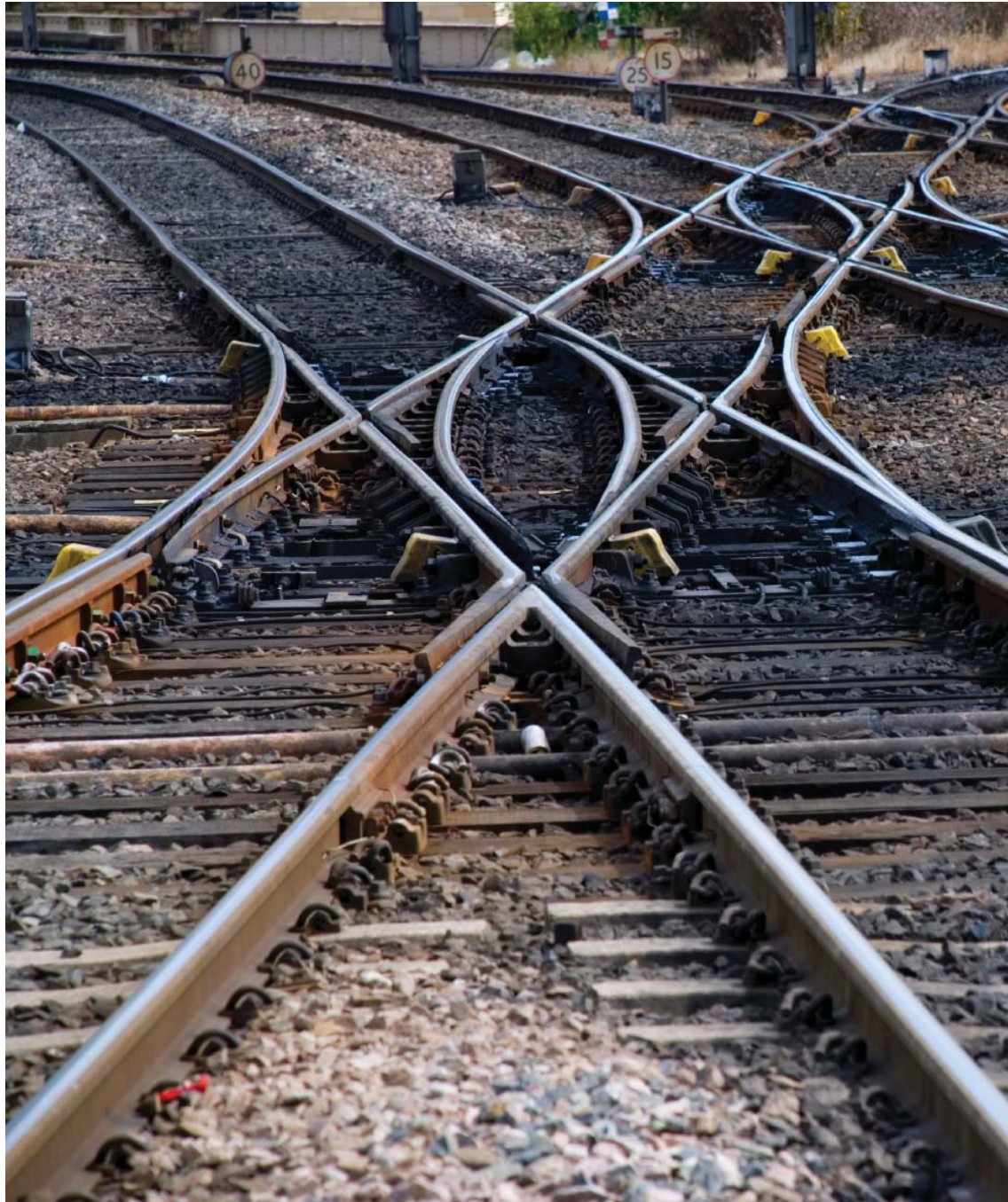
Family habits can change (meals, TV, bedtimes, etc).

There are no easy guidelines for parents. Patience, generosity and humour will help but are hit-and-miss virtues! Time seems to work best.

Family shapes can be irregular – children very close to each other in age; children very far apart in age; adults of different ages.

Family life-histories differ; some families last a long time, some a short time.

We all live in a changing world and all parents have to try to make family life nurturing whatever its shape and size. And all parents need to nurture themselves.



The Way Forward

In the aftermath of the upheaval of separation, there usually comes a time for reflection, when you take stock.

A Process

After the practical details have been largely sorted out, there follows a process of coming to terms with the situation. You may move:-

- *from grief to relief*
- *from anger to peace*
- *from guilt to freedom*
- *from regret to progress*

Often unrecognised, a relationship breakdown brings with it a grief similar to that of bereavement. It is the ending of a relationship...or is it? Depending on your situation, it may be the ending of a relationship, but more likely it is the changing of one form of relationship into another. This is a process; it takes time and it is quite usual for both parents and children to feel unsure and confused. It is the relinquishing of the couple relationship for that of a parent-to-parent relationship.

It Takes Time to Adjust

As adjustment takes place it is important not to push feelings under the carpet and pretend they are not there. They will bubble up in adults and children, sometimes triggered by incidents and memories.

As time progresses, it is likely that a satisfactory pattern of separated parenting will become established although in some instances the situation may remain very hostile. A significant number of parents do lose all contact with their children by five years after separation. In such cases, there will have been much heartbreak on the part of the children and the parent who no longer sees them. If you can begin working out arrangements for the children, with reviews over time, situations can take a more hopeful turn and confidence can increase.

What if there are Difficulties?

Being a parent is not easy and separated parenting brings a new set of emotions and situations that cannot all be anticipated. It is important to seek help before becoming too despairing. Talking to a friend or relative, so long as s/he is able to listen and be supportive, can be very helpful. Getting it off your chest usually reduces the load and helps you think in more practical, logical terms about what is best to do. It may however be that you or your children want some outside help.

Current research shows that children do best when regular contact is maintained with both parents. However, children suffer when there is a lot of conflict. Both parents will need to work at maintaining the situation that gives the best amount of contact with the least amount of friction.

In our experience the impartial neutral help of a skilled mediator can help you overcome any difficulty you might encounter and help put you all back on the right track.

Notes:

Where Can I Go For Help?

Mediation is available to help parents go on sorting out issues concerning the children and issues of finance and property. To find a service near you visit:
www.nfm.org.uk
Tel: 01392 271610

Citizens Advice Bureau will listen to your concerns and will be able to offer various local sources of assistance.
www.adviceguide.org.uk

Children's counselling may be available. Ask your local family mediation service if not available in school.

Your child's Teacher will be more able to help your child if s/he is aware of your situation. There may be a member of staff in your child's school who has particular responsibility for pastoral matters and to whom you or your child may be able to talk.

Counselling will give you a chance to take stock and to work out your own feelings and emotions.
www.bacp.co.uk
www.marriagecare.org.uk
www.relate.org.uk

The Courts if all else fails may make an order (usually either for contact or residence) but only if the welfare of the children is likely to suffer without it. A CAFCASS (Children and Families Court Advisory and Support Service) Officer may be required to produce a report for the Court. In this case, they would interview members of the family, including children, to assess the situation and to make a recommendation to the Court about a suitable course of action.
www.cafcass.gov.uk

Children's Legal Centre provides legal advice and representation to children, their carers and professionals throughout the UK.
www.childrenslegalcentre.com

Child Maintenance and Enforcement Commission The Commission's primary objective is to maximise the number of effective child maintenance arrangements in place for children who live apart from one or both of their parents. These may be arranged privately or through the statutory scheme.
www.cmoptions.org

Careline is a confidential counselling line for children, young people and adults.
www.carelineuk.org
 Tel: 0845 1228622

Community Legal Advice offers Provided free legal information leaflets and factsheets, search facility for local legal advisers
www.communitylegaladvice.org.uk

Family Information Direct aims to provide information, advice and support to all parents in England on a range of issues they may face in bringing up children.
www.dcsf.gov.uk/familyinformationdirect

Families Need Fathers provides information, advice and support services for parents on how to do the best for their children.
www.fnf.org.uk

Gingerbread offers advice for lone parents on benefits, housing, divorce, legal matters, bereavement and many other subjects.
 Freephone: 0800 018 5026
www.oneparentfamilies.org.uk

The Grandparents Association offers help and support for all Grandparents especially those who have lost contact with their grandchildren due to divorce or separation.
www.grandparents-association.org.uk
 Tel: 0845 4349585

Your GP or Health Visitor will listen and offer some practical sources of help.

It's not your fault offers practical information for children, young people and parents going through a family break-up.
www.itsnotyourfault.org

MATCH (Mothers Apart from their Children) offer non-judgmental emotional support to others all over the world who are apart from their child for one or many complex reasons.
www.matchmothers.org

National Association of Child Contact Centres promote safe child contact within a national framework of Child Contact Centres
www.naccc.org.uk
 Tel: 0845 4500 280

National Domestic Violence Helpline Information and access to 24hr emergency refuge accommodation.
www.refuge.org.uk
www.womensaid.org.uk
 Tel: 0808 2000 247

One Plus One investigates what makes relationships work – or fall apart – and make the findings accessible to everyone interested in strengthening and supporting couple and family relationships.
www.oneplusone.org.uk
 Tel: 020 75539530

Parentline Plus offers a telephone helpline to support parents with any issues around parenting and produces leaflets suitable for adults and children.
 24 hour helpline: 0808 800 2222
www.parentlineplus.org.uk
 They also have an email support service through the website.

Respect Information for men who are abusive to their partners.
www.repect.uk.net
 Tel: 0845 122 8609

Rights of Women informs, educates and empowers women about their legal rights.
www.rightsofwomen.org.uk
 Tel: 0207 251 8887

Notes:



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The paper used for this publication is sourced from sustainable forests.

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