

At what age can a child choose which parent to live with?



When parents separate, making arrangements for children of the family is usually one of the hardest decisions.

Parents can take into account their child's wishes at any age, taking into consideration their views and their feelings about who they will live with.

Generally, the courts like parents to make decisions in respect of their children between themselves, without legal intervention. If agreement cannot be reached, the next step is usually mediation. A trained mediator will work with you and your child's other parent to help you understand the options available and what might be best for your child. Any decision reached via mediation will be agreed upon by both parties, unlike a court decision, which one of you may be opposed to.

When the court is asked to decide

If you cannot reach agreement over the arrangements for your child, the court can be asked to make an order. It will always prioritise the needs of the child and make an order it believes to be in their best interests. It is usually the case that the court will want a child to have a meaningful relationship with both parents.

Once a child reaches the age of 16, they are legally allowed to decide which parent they wish to live with. It is open to the court to make an order requiring a child to live with a parent until a certain age, often 18, but if a child is 16 already, then their wishes will generally be followed.

How will the court consider a child's wishes?

The court will take a child's feelings on the subject of where they will live and with whom into account from an earlier age, often from around 12 or 13. This depends on the individual child in question and their maturity and understanding, to include whether they have any learning difficulties or disability.

Younger children can also express their wishes, but less weight is generally given to this.

What will the court consider when deciding where a child will live?

When looking at what will be in the best interests of a child, the court will use a welfare checklist that looks at seven key points:

1. The child's wishes and feelings, taking into account their age and understanding;
2. Their physical, emotional and educational requirements;
3. The effect that changes may have on the child;
4. Their age, sex, background and any other relevant characteristics;
5. Any risk of harm to the child;
6. The parents' abilities to meet the child's needs;
7. Any other relevant points.

The role of CAFCASS

The court can ask the Children and Family court Advisory and Support Service (CAFCASS) to visit the family and prepare a report to help it reach a decision. The children would generally have the opportunity to make their feelings known.

How to talk to your child about the future

If you want to talk to an older child about the future, the conversation should be done carefully, as there is a risk a child could see it as being asked to choose between parents. Having the conversation with the help of a trained family mediator is advisable. Both parents should agree to the conversation and both should be present.

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