

Divorce myth: Time with children is split 50/50



The breakdown of a relationship is an emotionally trying time for anyone, in particular where there are children involved. It can be difficult for the whole family to come to terms with a 'new normal' and the prospect of making living arrangements for your child can seem daunting. Where possible, you should try to reach an agreement between yourselves. If you are unable to agree you can ask the court to decide the arrangements for you, but there is no guarantee that the child's time will be divided equally between the two households. What the arrangements should be, will primarily depend on what is in the best interests of the child and it may not be decided that 50/50 residence is the best course of action.

Presumption of parental involvement:

The legal position is clear, both parents should be involved in their child's life unless it is shown that there is a risk that their involvement would have a harmful effect on the child's wellbeing or safety. Where this is the case, contact may still be possible if the risk is mitigated by implementing supervised or indirect contact, but this would depend on the individual circumstances.

If an agreement can be reached between you and your former partner:

The law encourages you to attempt to reach an agreement with your former partner as to how to share the care of your child, either by yourselves or with the help of a solicitor, but without the need to involve the court.

If an agreement is reached, it is advisable that you record what you have agreed in writing.

This can be done informally using a parenting plan which covers the practicalities of parenting, ranging from, for



example, how day-to-day costs for clothes or school trips will be shared, to who organises routine health issues. Alternatively, if you would prefer to make the agreement legally binding, the Family Court judge might be willing to make an order in the terms of the agreement. Though even if agreement is reached the court will only get involved if the judge is convinced it is absolutely necessary.

If an agreement cannot be reached between you and your former partner:

If you and your former partner are unable to agree on who the child should live with, or if you have agreed that the child will live with both parents, but you cannot agree on how they will divide their time with each parent (or any other issue relating to their care and welfare) you can apply to the court for a child arrangements order to decide the arrangements.

If you are the child's primary carer, the court may make what is known as a 'lives with' order. It is possible to ask the court to order a 'joint lives with' order, providing that your child is to live with both parents, and it can also specify when the child is to live with each.

The amount of time that a child spends with each parent will depend on what would be in the best interests of the child and the practical realities of the family, for example the work schedules of each parent and childcare availability.

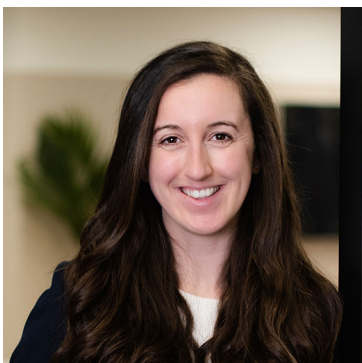
A child arrangements order can also set out the arrangements for your child to see the parent with whom they do not live most of the time, often referred to as a 'contact order'. This can include the length of the contact and how frequently it takes place.

When deciding on a child arrangements order, the court's key consideration will be the child's welfare. The court will take into account the child's physical, emotional and educational needs and the impact any change in the child's circumstances is likely to have on him or her. It will also consider the child's wishes, however it will give more weight to the wishes of a child once they are of an age at which they are deemed to have sufficient understanding.

A child arrangements order must come to an end when the child turns 16 years (unless the circumstances are exceptional) at which point the child will be able to decide who he or she would like to live with and spend time with. Only in exceptional circumstances, for example where the child has a disability, can a court make an order that continues past the child's 16 birthday.

How can we help

Our expert family team are here to help you and advise whatever your situation may be. Find out more about our [family law](#) areas of expertise or [contact us](#) when you are ready.





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