COLLAS CRILL

Children: Common family law questions

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WHAT ARE THE USUAL ARRANGEMENTS FOR CONTACT?

The general rule is that contact is deemed to be the right of the child. There is a massive presumption that children will have very regular face to face access, which can only be displaced in extreme circumstances.

There is no such thing as a standard arrangement for contact. Contact arrangements vary considerably from case to case. They range from staying contact two or three nights each week, to indirect contact by letter or birthday cards on an annual basis. These are extreme examples, but illustrate the variety possible.

Perhaps the most typical contact arrangements would be staying contact on alternate weekends, plus possibly one overnight stay midweek provided that this is not disruptive for the child. See Orders available.

HOW CAN I PREVENT MY CHILDREN FROM SEEING A NEW PARTNER?

This is a very common enquiry. There is little or no law on this subject which demands sensitivity and common sense. Clearly, different children react in very different ways to a separation and what may be acceptable to one child may cause great upset for another.

The reality is that there are no hard and fast rules on this very delicate subject. It is impossible to generalise. At one extreme, it may be wrong to introduce a new partner within days of separation, and yet common sense dictates that it cannot be right that a parent in a new but settled and established relationship must exclude their partner indefinitely.

Much, of course, will depend on the individual facts of the case and the ages and maturity of the children. If this is dealt with sensibly and carefully, then no doubt children can benefit from seeing their parent in a settled, stable relationship.

WHAT HAPPENS IF I AM STOPPED FROM SEEING MY CHILDREN?

We would strongly advise you to seek legal advice. In short, the longer you leave it, the more difficult it is likely to become to reinstate contact with your children.

On any separation, children will want to know what is happening and why they are not seeing the absent parent. The sooner you have contact with them and offer reassurance, the better this is likely to be.

CAN I TAKE MY CHILDREN AWAY FROM GUERNSEY?

This is a complex area of the law upon which you should seek legal advice. The wrongful removal of a child can be child abduction which is a criminal offence, and you may also be in breach of other orders made by the

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Court. See International relocation.

WHAT IF THERE ARE ALLEGATIONS OF DOMESTIC ABUSE OR VIOLENCE?

Before making any orders for contact, the Court may decide to hold what is called a Finding of Fact hearing. The purpose of this is to determine the facts of the case, in so far as they relate to the children. See Domestic abuse & violence.

WHAT IF THE CHILD MAY NOT BE MINE?

If this is a possibility, then the Court can order DNA testing. DNA testing is conclusive, but also expensive.

CAN I CHANGE MY CHILD'S NAME?

The general rule is that you cannot change your child's name, unless you have the permission of every person who has parental responsibility or it is carried out by Court order. If the Court is asked to make a decision on a child's name, the Court will apply the welfare checklist set out in 'The Children (Guernsey & Alderney) Law, 2008' and will ultimately make the decision on the basis of what is in the best interests of the child. See Change of Name.

AT WHAT AGE CAN A CHILD MAKE UP THEIR OWN MIND?

'The Children (Guernsey & Alderney) Law, 2008' makes it clear that, irrespective of age and maturity, a child should always be given the opportunity to express their wishes in any matter affecting their life. The law also presumes that a child of twelve years or above is capable of forming a view.

In practice, the Court is unlikely to ignore the views of an averagely mature child of twelve to thirteen years, or above.

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