



The Litigant in Persons Guide: Children Law Applications



Mathew Charles



Children Law
A Litigant in person guide



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INTRODUCTION

A child's own parents are primarily responsible for caring for their children and promoting their welfare. Therefore the courts will only become involved¹ where a child's welfare is suffering or parents are unable to agree matters between themselves. This eBook will look at the principles which will guide a court when asked to resolve a dispute between parents and the way it will be dealt with.

These principles are well established. There have been countless cases before the courts over the past 20 years since the Children Act came into being. The law is therefore well established and will be well known to the judge who hears a case. It is only in the most exceptional case that legal argument will be called for. The job for the judge will simply be to decide whether or not the application before him will further the child's welfare if granted.

The author believes that usually arguments about what is in a child's best interests are best put forward by a parent and not by a lawyer or third party. It is the child's parent that knows all the facts and even a well instructed lawyer does not know them all and can only repeat what he has been told. Furthermore even the most skilful advocate will not impress a judge as much as a parent speaking from the heart. The judge is unlikely to favour someone who has spent large sums of money on paying someone to speak for him (or her) against someone who has clearly gone to the trouble of preparing and presenting the case themselves. It may well be thought that the money would have been better spent on the child.

The mission of this book and what follows is to show a parent how he or she can confidently conduct their own case. To have this confidence some knowledge of the law is required and this is explained in the first part of the book. How the court system works and the procedure to follow is in the next part. Sections then deal with the many presumptions which tend to follow cases concerning children and which are usually totally wrong. The classic one which is expounded is that the court favours a mother who always 'gets' the children. What really influences the court is explained and you are told how to concentrate on this. The final section of the book deals with what to do should things get dirty and how to protect your position.

It is hoped that you the book will show you that the family court is there to help parents who have their children's welfare at heart. When this is the case you and the court are on the same side and you will be helped and respected by all involved.



CHAPTER 1: THE PRINCIPLES WHICH APPLY

A child's own parents are primarily responsible for caring for their child and promoting his or her welfare. Therefore the courts will only become involved where the child's welfare is suffering or parents are unable to agree matters between themselves.

The law as it relates to children is almost entirely contained within the Children Act 1989 where disputes between parents are dealt with in the first part of the Act. A number of principles are contained but the thread running throughout is that the child's welfare is to be the paramount concern of the court.

THE WELFARE PRINCIPLE

This basic principle of the Children Act is set in stone in the first section of the first paragraph and reads:

'When a court determines any question with respect to the upbringing of a child, the administration of a child's property or the application of any income arising from that property, the child's welfare shall be the courts paramount consideration.'

What welfare means has been described by one judge as this:

'welfare is an all encompassing word. It includes material welfare; both in the sense of adequacy of resources to provide a pleasant home and a comfortable standard of living and in the sense of adequacy of care or to ensure that good health and due personal pride are maintained. However while material considerations have a place they are secondary matters. More important are the stability and security, the loving and understanding care and guidance, the warm and compassionate relationship, that are essential for the full development of the child's own character, personality and talents'.

