

Apply for Custody, Care and Control, and Access

Three concepts govern arrangements for children. Custody is the right to make the major long-term decisions about a child's life, such as schooling, religion, medical treatment, and where the child lives. The Court commonly orders joint custody, which means neither parent may make a major decision without consulting the other. Care and control covers the day to day decisions and means which parent the child lives with. Where the parents cooperate and the child spends at least 35% of the time with each, the Court may order joint care and control. Otherwise it orders sole care and control to one parent. Access is the time the other parent spends with the child, and it can be midweek, staying, holiday, supervised, or by telephone or video.

The welfare of the child is the Court's first and paramount consideration under section 3 of the Guardianship of Minors Ordinance (Cap. 13). Not the wishes of either parent.

You may raise children's arrangements in your Petition through Form 2B, in the Respondent's Answer, or by filing a Children's Summons supported by an affidavit that sets out the issues and the orders you seek. The matter then proceeds on the Children's Dispute Resolution track under Practice Direction 15.13.

- 1** The Registry fixes a Children's Appointment, which is a case management hearing. Not less than 14 days before it, file and exchange Form J and a concise Statement of Issues. File Form H2, the costs estimate, three clear days before.
- 2** At the Children's Appointment the Judge defines the issues and gives directions, which may include a Social Investigation Report, expert evidence, interim orders, or mediation. The Judge usually fixes a date for the CDR Hearing.
- 3** Not less than 14 days before the CDR Hearing, file and exchange a detailed Statement of Proposals saying specifically where the children will live, what access the other parent will have, and how decisions will be made.
- 4** At the CDR Hearing the Judge encourages agreement. The CDR is not without prejudice, so anything said may be used at a Children's Trial. If you agree, the terms become a Consent Summons, which is signed, filed, and sealed. If you do not, the Judge sets a timetable for a Children's Trial.

Note: incorporate a parenting plan into your order. It is a detailed written document setting out the children's routine, how holidays are divided, and how you will communicate and handle changes. There is no prescribed form. You create it.