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School Holiday Arrangements for Separated Parents

Summer holidays will soon be upon us, and children across the UK look forward to a long summer. Nonetheless, for some separated parents, the summer holidays can be a natural bone of contention with issues including (but not limited to):

1. Where the child should spend their holiday
2. How much time the child should spend with each parent
3. When one parent wants to take the child on a “stay-cation” in the UK and the other objects
4. When one parent wants to take the child abroad and the other objects
5. The return of a passport

For this reason, parents should seek to agree and plan the holidays as far in advance as possible to prevent hostility or litigation (court proceedings) from being required to resolve this dispute.

It is always advisable to inform your former partner of your summer holiday plans and the relevant details they would be expected to know. Again, these include (but are not limited to);

1. Where you are going
2. The dates of travel and who is attending with you and the child.

Most disputes surrounding the summer holidays that need to be resolved in the Family Court are simply to do with parties being unable to communicate and requiring concrete reassurance that they will be kept updated with all relevant information for the benefit of the child in case of emergencies.

The starting point

If you are a separated parent and want to take your child on holiday, it is often a holiday abroad that causes the most contention. The first step is looking at whether you have a Court Order in place, as this will make a big difference. If there is no court order in place (known as a child arrangements order), parents are generally able to take the children abroad to any destination.

If you are a father and are on the birth certificate for the child, you also have the same rights as above and can take the child abroad as long as you receive their passport. Again, it is advisable to liaise with your partner about where you intend to travel so that discussions can commence about contact times and when the passport is to be exchanged/returned.

A child arrangements order is in place

If you have a court order in place, and the children live with you on the order, you can take the children abroad for up to 4 weeks. However, if you intend to go abroad longer, you must make an 'application to vary' at the court and permit more extended travel.

It is also worth mentioning that despite there being a child arrangements order in place, it still may not adequately deal with the school holidays (depending on whether there are ongoing proceedings and at what stage those proceedings are at), and therefore, it is crucial to double-check that any interim order does deal with the school holidays. The ideal scenario is a final order covering as much as realistically possible, including the school (summer) holidays. Unfortunately, this cannot always be the case, and it will be on a case-by-case basis.

No child arrangements order in place

There is no limitation on the length of time you can take the child abroad if there is no court order, but you must be mindful that any former partner can apply to the court if you are concerned about travelling away with the child. The application is a 'prohibited steps order' and can prevent any trip abroad if the former partner has concerns. If you book in advance and do not intend to communicate about the same with your former partner, you may be at risk of having to return to court to explain why the trip is necessary, which may be after the trip is due to take place. If this is the case, there is a strong possibility that you will not be able to go on that trip and therefore risk disappointing the child and losing the travel fees.

What if you cannot agree on the standalone issue(s) of the summer holidays?

Should you not be able to agree with your partner on the summer holidays, an attempt should be made to

discuss and compromise these arrangements for the benefit of the children.

If this is not working out, then mediation should be considered. Mediation is an appropriate route to pursue if you do not feel that an agreement can be reached, as a proposal can be given to a third party (who would be a trained mediator, independent of both you and your former partner) who can then assist in reaching a joint agreement.

What happens if direct discussions and mediation are not successful?

Following the attempt of both of the above, you can make an application to the court if the issue(s) cannot be resolved.

Court application – A 'specific issue order'

In this scenario, the order you would seek from the court is known as a 'specific issue order' under Section 8 Children Act 1989. This can deal specifically with a holiday or future holidays, depending on your circumstances. In this hearing, a court will consider the view of both parents and the merits of their arguments and will make a decision based on the overriding principle of the child's welfare and what would be in their best interests.

It is worth adding that if a court application for a 'specific issue' has already been made and a hearing has been listed, nothing stops you and your former partner from trying to reach an agreement before the court date or, indeed, in mediation. If this occurs, then an order can be potentially drawn up before the court hearing, and a day in court can be avoided. Alternatively, the day in court may still occur, and the court can be informed that an agreement has been reached, and this can only be seen as a positive.

Dealing with the bigger picture – A child arrangements order?

It is worth adding that if there is no court order prior to the issue(s) of the summer holidays and you feel that issues between you and your former partner go beyond 'just the school holidays' or, indeed, you feel any agreement will be reneged upon; you may wish to consider an application to the court for a child arrangements order. This can be made as a standalone application or as a simultaneous application with the 'specific order' application – it really does depend on what issues there are at that material time. The 'specific order' application will certainly be appropriate in emergency situations when the summer holidays are only around the corner. However, the advice is clear – it is best to resolve any potential disputes well in advance of the impending holidays.

In any event, a child arrangements order application will invite the court to make a final order, which is legally binding, setting out the term-time and holiday arrangements for a child. Of course, it is within the court's remit to refuse to grant an order if there is no benefit to the child by doing so, known as the 'no order principle'. Every case is taken individually, as personal circumstances will differ in each matter, and the court will be required to

consider each argument differently. The court will assess all concerns raised within your matter and go through the welfare checklist (contained within the Children Act 1989), which provides a list of considerations that need to be reviewed before the court can make an order. It is, therefore, advisable that you seek advice before making any court application.

If you would like any further information or help with drafting a permission to travel letter or witnessing the letter, please do not hesitate to contact the [Family](#) team or Giuseppe Pingerna at 01202 786161 or giuseppe.pingerna@la-law.com.