

Wollen Michelmore

SOLICITORS

SUN, SEA AND SEPARATION

Everyone will agree that holidays are fun and enjoyable times and they can play a particularly important role in children's educational and cultural development.

Nevertheless, holidays can often be a cause of conflict in separated families where one party wishes to take a child abroad or to another part of the UK against the wishes of the other parent.

Sometimes there is good reason to prevent a child being removed from the UK for example where there is a risk of non return. Ultimately however the Court will generally promote family holidays for children where they can learn about new cultures and enjoy quality time with their parent and siblings.

So what does the law say about taking a child away? Under the Child Abduction Act it is a criminal offence to remove a child under the age of 16 from the UK without the appropriate parental consent, that consent needing to come from each parent who has Parental Responsibility for the child.

Parental Responsibility is a legal term being all the rights, duties, powers and responsibilities and authority which by law a parent of the child has in relation to the child in its property.

There is one exception to this rule and that is where the person who is taking the child from the UK has a Child Arrangements Order stating that the child lives with them and the holiday is for less than one month.

Parents would therefore be well advised that any holiday plans are communicated to the other parent well in advance and before any costs are incurred to reach an agreement preferably in writing so the holiday can take place.

School holidays are often an emotive subject upon separation and parents can disagree about arrangements but a well thought out schedule dealing with the years' holiday periods well in advance will assist parents to avoid any difficulties and avoid the need for an urgent Application to the Court.

In circumstances where agreement cannot be reached, the parent who wishes to take the child on holiday can ask the Court to make what is known as a Specific Issue Order, dealing with, as the title suggests the specific issue of this holiday. In doing so, the Court will

consider the Children Act 1989 and the “welfare checklist”. The welfare of the child will always be paramount and a well thought out Application setting out the benefits to the holiday, all of the details surrounding travel arrangements and security considerations and contact arrangements for the parent not travelling are all important to include.

Everyone will wish to avoid the costs and emotional expense of an Application to the Court such Applications quite often having to be made late in the day where it becomes obvious an agreement cannot be reached. A Child Arrangements and Parenting Plan designed to record in writing the parents’ obligations and their agreement about certain aspects of parenting can help to reduce conflict. They are flexible and can be tailored to your family. The Plan, prepared and signed with input from both parents represents a commitment by them to work with the Plan and can cover many issues, holiday agreements being one of them.

If you think that your family could benefit from a Child Arrangements and Parenting Plan, if you need specialist advice on holiday arrangements or general information and advice regarding child arrangements upon separation please contact Gemma Stevens on:

01626 883510 (Newton Abbot) or 01803 832191 (Dartmouth) or email to:

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