

LEGAL REMEDIES FOR DOMESTIC DISPUTES

CHILDREN

WHAT YOU CAN GET

Affiliation Order, which determines the fatherhood of an illegitimate child; grants access to a child; maintenance for the child.

Court Order(s) saying who shall have custody/care and control of a child; granting access to a child; maintenance for a child.

Injunction or Protection Order to exclude man from home if his presence disturbs the child; or to prevent him from behaving violently towards the child; from removing the child from your care; from school, etc., or from the country.

HOW TO GET IT

Application under the Guardianship of Minors Act, in the County Court or Magistrates Court. (Only the County Court can grant an Injunction).

Wardship proceedings in the High Court.

Application to the County Court under the Guardianship of Minors Act.

Take affiliation proceedings in the Magistrates Court.

Application under the Domestic Proceedings and Magistrates Courts Act, in the Magistrates Court.

Petition for Divorce or Judicial Separation in the Divorce County Court or High Court.

WHO CAN GET IT

Any woman who is the mother of an illegitimate child under 3 years and who has a witness prepared to give evidence for her, as to the fatherhood of the child.

Any woman who is the mother of a child.

A married woman who can show that her husband has failed to provide reasonable maintenance for her or the child(ren); or has behaved unreasonably; or has deserted her.

The married mother of a child, who has grounds for Divorce or Judicial Separation. (see under MONEY for these).

Any woman who is the mother of a child or has an interest in the child's welfare.

HOW QUICKLY CAN YOU GET IT

There will usually be about 6 weeks wait between issuing the summons and the first Court hearing.

In the County Court, and Injunction can usually be obtained the same day, but in both Courts custody, access and maintenance will take longer to decide.

A Protection Order can be expedited in case of urgent danger of physical violence. Custody, access and maintenance will take longer.

An Injunction can be obtained the same day custody, access and maintenance will take longer.

The child is made a 'ward of court' as soon as the papers are filed at the High Court. Final decisions on custody, access and maintenance will take longer.

ADVANTAGES

DISADVANTAGES

A lump sum maintenance order is limited to £500. There is the danger that the Court will allow the father access to the child against your wishes.

The County Court procedure is more formal than the Magistrates Court. Both Courts can deal with illegitimate children.

The Magistrates Court is local but may not be so sympathetic to family cases, as they're more used to dealing with criminal cases. Lump sum maintenance orders are limited to £500.

All matters can be dealt with in the same set of proceedings. If your husband decides to defend the case, it may take a long time for the final Orders to be made in respect of the child/ren, but you can ask the Court to make Interim Orders.

The Home Office can put a 'stop' on all ports and airports to prevent a child leaving the country. All decisions about a child's welfare, e.g. choice of school must be referred to a High Court Judge until the child is 18 or is 'de-warded' - this can be done at any time. No maintenance orders can be made for illegitimate wards.

INJUNCTIONS AND PROTECTION ORDERS

are frequently mentioned in this Chart. They are Court Orders to restrain a man from doing something, for example from battering you; or to order him to do something, for example to leave your home.

The County Court and High Court can attach a Power of Arrest to an Injunction, and the Magistrates Court can attach one to a Protection Order. This means that the police can arrest the man if he breaks the Order (but doesn't mean that they always will arrest him). If the man is in breach of the Order, he can be brought back to the Court, and may then be sent to prison.

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