

survival plan

for parents

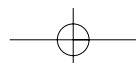
in the separation/divorce process



Law Society of Ireland

Family Law and Civil Legal Aid Committee, Law Society of Ireland,
Blackhall Place, Dublin 7.

an information booklet



remember going to **court** should be
a last resort
not a **first option**

contents

INTRODUCTION	1
SOME TIPS	2
FOCUS ON CHILDREN	3
BEING PART OF THE SOLUTION NOT THE PROBLEM	3
Through Mediation	4
Through your solicitor	4
Apply to Court to Make an Order	5
RECOMMENDED READING	8
For Children	8
For Parents	9
HELPFUL ORGANISATIONS	10

INTRODUCTION

Relationship breakdown is a sad and stressful event in the lives of those going through it. The decision to separate/divorce is a process rather than a single event. It takes time for a relationship to get into difficulties. The parties may struggle with those difficulties for some time before they decide that they cannot be resolved and decide to part. It is tough on adults and it is just as tough on children. It takes time for everyone to recover.

The way in which a couple handle their separation or divorce can make a huge difference to how well their children adapt to the inevitable changes in their lives. This puts the responsibility on divorcing or separating parents to do their very best to make sure that their children come through with the least amount of damage. This is not an easy task for parents to achieve at probably the most stressful time in their lives BUT it is good to know that you, as parents can achieve this for your children.

The longer children have been exposed to their parents' conflict before, during and after separation/divorce, the more serious will be the long-term psychological damage to their children. Negative effects can be avoided or minimised if parents can focus on the needs and welfare of their children regardless of their own anger or hurt with their estranged partner.

This short booklet has been written by Solicitors and Mediators as a guide to help couples who have children and who are going through a separation or divorce process, to provide the best outcome for their children. There has been much research on the outcome for children of their parents' separation, which we suggest you read. There are many good books written for parents on this topic which are listed at the back of this booklet together with the names and contact details of organisations that may be helpful either to you or your children at this difficult time. Parents can overlook how children themselves view their parents' separation. This booklet is therefore interspersed with extracts from 'Children's experience of Parental Separation' published by the Children's Research Centre, Trinity College, Dublin with whose kind permission these extracts are made available.

**"I'd no idea, so when it did happen,
I was in terrible shock for a long while."**

Girl aged 15, one year since separation

SOME TIPS - DO

- Support your child's relationship with the other parent – it allows him/her the freedom to be a child
- Try to make decisions relating to the child jointly and then stick by them
- Reassure your children that they are loved by both of you
- Assure them they are not responsible for your decision to separate/divorce
- Talk to your children about your decision to separate/divorce together at an agreed time and the changes that will ensue in your family
- Understand that your children will be sad
- Reassure them that they won't lose either of you
- Be as respectful and polite to the other parent as you would be to a stranger
- Have your children ready on time
- Have regular and consistent access to your children if you are not living with them. Your children want and need your time
- Understand that children benefit from stability and consistency in their lives
- If drink, domestic violence or drugs are part of the problem then get professional help immediately

"We all, like, discussed it and talked about it, anytime any changes were going to happen like. She'd ask about them."

Boy aged 15, two years since separation

SOME TIPS - DON'T

- Criticise the other parent in front of the children – it will damage their self esteem
- Make them a 'go between' in communicating with the other parent
- Make them choose between you as parents
- Let them act as your caretaker
- Drag them into the issues of your separation/divorce
- Row in front of the children
- Disappoint your children by not turning up or by being late
- Quiz your children when they return from access

"My mum tells me one thing and my dad tells me the other, I do feel confused, yes."

Girl aged 15, one year since separation

FOCUS ON CHILDREN

When a relationship breaks down to the point of separation/divorce there is inevitably a lot of anger, sadness and resentment by one person towards the other. It is not unusual for respect for or trust in the other parent to diminish or disappear. Love and tolerance can turn to hate and intolerance. Behaviour that was tolerated and forgiven during the relationship can become a flash point for irritation and anger when the relationship is over. Each person knows the other's weak spots.

Every child has two parents and they draw their own identity from their two parents. Children realise at an early age that they are part 'Mummy' and part 'Daddy'. If one parent runs down the other parent to the child, or does so in the presence of the child, the child sees it as criticising a part of himself or herself and so their self-esteem is damaged. Good self-esteem is an essential ingredient of emotional health.

Once you have children, it is not possible to walk away from them at the end of your relationship. The relationship between you and your partner may be over but the parenting relationship needs to continue for the sake of the children. Each parent needs to learn the skills necessary to work with the other parent – for the sake of the emotional health of your children. This is not easy. Your own self-esteem may have taken a significant blow by reason of the separation or divorce. To help your children you may need to seek help yourself. Getting counselling for yourself is a very good idea and should help you recover and move on in your life.

"I knew I could have contact with him 'cause my mum said that whenever we wanted to see our dad, we could...She wasn't going to stop us having a relationship with our dad."

Girl 16, six years since separation.

BEING PART OF THE SOLUTION NOT THE PROBLEM

Children are reassured when they know their parents are in control and are making good decisions about them. They will especially want that reassurance in the context of separation or divorce. Continued co-parenting through joint-custody with the other parent, post separation or divorce is a very practical way of showing children that both of their parents remain committed to them. Of course this is not easy, but it is possible and it is most certainly worthwhile.

There are a number of ways you as parents can work out what is the best parenting plan for your children:

1. Through Mediation

When communication between you is difficult, stressful or has broken down it is helpful to work out the detail of a Parenting Plan together with the assistance of a trained Family Mediator. You are helped to manage conflict in a way that protects the best interests of your children. Your mediator will help you consider how you can keep as much continuity and stability as possible in your children's lives. You will decide together where your children will be living, what you will put in place to ensure that your children have as much contact with each of you as possible and how your children will be financially provided for.

A Parenting Plan is a carefully devised schedule which sets out the above in detail but also can include how you will make decisions about your children – details on school arrangements, child care, holidays, pocket money.

A Parenting plan provides continuity for your children in their relationship with each parent. They know when they will be with each of you. A parenting plan provides a structure so everyone is clear about future living arrangements. Clearly agreed plans help to reduce conflict.

When parents communicate constructively, they avoid the difficulties children experience when they feel caught between two parents whom they love.

Your Parenting Plan is a flexible plan which you can change as your children's

needs and interests change and as they get older. Your children need to be listened to when expressing their views and concerns.

If mediation is not available in your area, contact the Mediators Institute Ireland for a list of accredited mediators - see Helpful Organisations.

You tailor make the plan to the needs of your family.

2. Through your solicitor

You may well be seeing a solicitor in relation to the other legal issues, which come up in the context of separation or divorce. Separation and divorce tend to be negative life events. Dividing things into 'yours' and 'mine' tends to put parents in a certain combative mood. Add to that the hurt due to promises broken and joint hopes dashed as well as the financial fallout and problem of having to start over in your middle years of life and it is hard to see how parents can draw anything positive from the experience. However it is essential to deal with children issues in a very different manner.

Solicitors are now obliged by law to advise all clients on the advisability of resolving any dispute concerning the rearing of a child in a co-operative manner either through Mediation, or by sorting out an agreement through the solicitors acting for each side. If for whatever reason therefore you do not engage directly with the other parent through the Mediation process, it is still possible and advisable to reach agreement through negotiation by your solicitor. The way in which you separate can have consequences for yourselves and your children.

3. Apply to Court to Make an Order

Where parents cannot agree then of course the Court can make an order deciding where and when and how children are to be raised. The law makes a distinction between "custody" "access" and "guardianship". Custody is the day to day care and control of the child. Access is the right to have some level of regular contact with the child. It is also the right of the child to have ongoing contact with the absent parent. Guardianship is the right to be consulted and have input into the big decisions such as the health, education and general welfare of the child. Married parents always retain guardianship rights even after sep-

aration or divorce. Unmarried fathers, who have guardianship rights either by agreement or by order of court, can only lose these rights if removed by order of court.

The Court can award custody to one spouse, with separate access rights to the parent with whom the child is not living. The Court can also give joint custody to both parents, however if there is continuing conflict or if parents cannot work sensibly in the interests of the child an order for joint custody is unlikely to be made. When an application is made to court for joint custody, sole custody, or for a determination as to what access is to be put in place the Court will make the decision on the basis of the 'best interests of the child' and this will be the Court's guiding rule – rather than what either parent wants.

Going to Court should be a last resort however. The Judge rather than the parents then decide on parenting matters. The Court Order is binding on all parties and can be enforced as a Court Order.

If you are the custodial parent you have an obligation to facilitate the child's contact with the other parent. If you are the non-custodial parent stick to the agreed times and days of your access. Try not to disappoint your children! They are the ones who will be hurt by broken promises. Where the Court has made an Order each parent should obey that order. To disobey a Court Order has serious legal consequences.

A child is a minor until age 18 but a child is financially dependent until 23 years of age if in full time education.

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recommended reading

GENERAL

Name of Book	Author
When Parents Separate: Helping your children Cope	John Sharry, Peter Reid & Eugene Donohoe, Veritas Publications, 2001
Mom's House, Dad's House, Making Two Homes for Your Child	Isolina Ricci, Ph.D., Simon & Shuster New York
Joint Custody with a Jerk, Raising a Child with an Unco-operative Ex	Julie A. Ross M.A., & Judy Corcoran, St. Martin's Griffin, New York
Does Wednesday mean Mom's House or Dad's ? Parenting Together While Living Apart	Marc J. Ackerman Ph.D. John Wiley & Sons, Inc, Professional and Reference ??? Group
Caught in the Middle. Protecting the Children of High Conflict Divorce	Carla Garrity and Mitchell Baris Jossey Bass Publishers
Things for Dads to do with Kids	Sam Carroll, Parental Equality Publishing
Children's Experiences of Parental Separation	Hogan D., Halpenny A & M & Greene (2002), Children's Research Centre, Trinity College, Dublin.

recommended reading

FOR CHILDREN

Brown, Laurence Krasney and Marc Brown.

Dinosaurs Divorce: A Guide for Changing Families.

Atlantic Monthly Press, 1986

Fassler, David, Michele Lash and Sally B. Ives

Changing Families: A Guide for Kids and Grown-Ups

Waterfront Books, 1988

Gardener, Richard A.

The Boys and Girls Book About Divorce With an Introduction for Parents

Bantam Young Reader, 1985

Krementz, Jill.

How It Feels When Parents Divorce

Knopf/Random House, 1984

Stinson, Kathy and Nancy Lou Reynolds (illus.)

Mom and Dad Don't Live Together Anymore

Firefly Books, 1988

recommended reading

FOR PARENTS

Ahrons, Constance R.

The Good Divorce: Keeping Your Family Together When Your Marriage Comes Apart

Harper Perennial, 1995

Bienenfeld, Florence

Helping Your Child Through Your Divorce

Hunter House, 1995

Engel, Marjorie

Divorce Help Sourcebook

Visible Ink Press 1994

Everett, Craig A. and Sandra V. Everett

Healthy Divorce

Jossey-Bass, 1994

Friedman, James T.

The Divorce Handbook: Your Basic Guide to Divorce (rev. ed.)

Random House, 1984

Gardner, Richard A.

The Parents Book About Divorce (rev. ed.)

Bantam Books, 1991

Gold, Lois and Joan B. Kelly

Between Love and Hate: A Guide to Civilized Divorce

Plenum Press, 1992

McKay, Matthew, Peter Rogers and Joan Blades

The Divorce Book: A Practical and Compassionate Guide (2nd ed.)

New Harbinger Publications, 1999

helpful organisations

Court Services Board

Phoenix House, Smithfield, Dublin 7
Tel. No. 01 888 6462

Law Society of Ireland

Blackhall Place, Dublin 7
Tel. No. 01 6724800

Family Mediation Service (under the auspices of the Family Support Agency)

1st Floor, St. Stephen's Green House, Earlsfort Terrace, Dublin 2
Tel. No. 01 6344320

Mediators Institute Ireland

103 Landsdowne Park, Dublin 4
Tel. No. 01 6683187

MRCS

Marriage & Relationship Counselling Services
38 Upper Fitzwilliam Street, Dublin 2
Tel. No. 01 6785256

MRCS – Post separation Parenting Course

Tel. No. 01 6785256

Legal Aid Board

Montague Court, Montague Street, Dublin 2
Tel. No. 01 4776200

AIM

6 D'Olier Street, Dublin 2
Tel. No. 01 6708363

Community Information Centres

Check Golden Pages or National Social Service Board

Treoir

14 Gandon House, Lower Mayor Street, IFSC, Dublin 1
Tel. No. 01 6700120

Barnardos National Children's Resource Centre

Christchurch Square, Dublin 8
Tel. No. 01 4549699

Parental Equality Support Group

54 Middle Abbey Street, Dublin 1
Tel. No. 01 8725222

Grandparents Obliterated

C/O Parental Equality, Middle Abbey Street, Dublin 1
Tel. No. 01 8725222

Gingerbread Ireland

National Association for One Parent Families
29/30 Dame Street, Dublin 2
Tel. No. 01 6710291

Family Lawyers Association

Law Library, Distillery Building, 159/151 Church Street, Dublin 7

ACCORD

(Central Office), Columba Centre, Maynooth, Co. Kildare
Tel. No. 01 5053112

CARI Centres

National/Dublin, 110 Lower Drumcondra Road, Dublin 9
Tel. No. 01 8308529
Fax. No 01 8306309
Email: info@cari.ie

CARI Centre – Limerick

2 Garryowen Road, St. John's , Limerick
Tel. No. 061 413331
Fax. No. 061 310708
Email: carifoundation@indigo.ie

Rainbows

Support Group for Children of Bereaved & Separated Families (all ages)
Willie Morgan, Loreto Centre, Crumlin Road, Dublin 12
Tel. No. 01 4734175

Teen Between

(part of MRCS) 38 Upper Fitzwilliam Street, Dublin 2
Tel. No. 01 6785256

* Information leaflets are available from most of the above organisations