

How to behave in front of the children during a divorce

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During a divorce, the priority must be the children's welfare and wellbeing. Using them as a weapon is cruel in the extreme.

It is important to recognise from the outset that children react to stressful situations in very different ways to adults. They have no frame of reference to work from, so to them the feelings of abandonment, confusion, loneliness and even anger are new and often completely overwhelming. Often, children will blame themselves for the break-up of their parents' relationship, and it can be very difficult to convince them otherwise.

Because children can find it difficult to express their emotions in terms that an adult will understand, they can also 'shut down', and keep their feelings hidden. So, it is not unusual for parents to underestimate the impact their marital issues are having on their children. Little Johnny isn't 'fine' by any stretch of the imagination – he's hurting badly, and unable to communicate how he's really feeling right now.

The first responsibility of any parent is to keep the confrontation to an absolute minimum, especially in front of the children. If you row, do it where your children cannot witness or hear it. Do not underestimate how quickly children can pick up on an 'atmosphere'. Children are extremely empathic, and can be effected just as much by frosty silences as they can by shouting matches.

Have a plan

A parenting plan can help make the transition period much smoother, and give you both a point of reference that's agreed and in place before you start divorce proceedings.

Don't be afraid to ask for help. A third party can often mediate between two partners to ensure the welfare of

the children remains a priority from start to finish. Remember that this part of a divorce can become highly emotionally charged, so a mediator can often help to keep a sense of perspective and to calm the situation.

Parental responsibilities

While mothers have parental responsibility from birth (unless the child has been put up for adoption) the situation can often be less than clear for fathers. If you were married at the time of the child's birth, then you have parental responsibility. However, if you were not married then it will depend on the date of birth of the child. If the child was born after 1 December 2003 and the father is named on the birth certificate, then they have responsibility.

Who should the child live with?

In most cases, the parents will decide who the child should live with on a permanent basis, while granting the other parent access. If this can be agreed amicably, then there should be no need for a court order, which is also the best possible outcome for the child.

However, if the courts become involved in the arrangement, then they will look at a number of factors before laying down the agreement in what is now known as a '[Child Arrangements Order](#)'. This will cover both residence and access rights.

How the courts act

Throughout the procedure, the wishes of the child should be carefully considered, and is the top priority as far as the courts are concerned.

The older the child, the more likely they are to have an influence over whom they live with, and what visiting rights are allowed.

The courts will use the [Children's Act 1989](#) as their check list when dealing with any break up that involves children. But it is up to you to make sure your children's welfare is a top priority when you're away from the courtroom.

That means providing a safe and secure environment that a child can feel at ease in, with the emphasis on 'secure'. The upheaval that a divorce causes puts enormous strain on a child's perception of stability, and can be incredibly damaging. Your relationship with your partner may have ended, but both of your relationships with your children will last a lifetime.

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James McMullan is a member of [Resolution](#), an organisation of family lawyers and other professionals, who believe in a constructive, non-confrontational approach to family law matters. James follows the [Resolution Code of Practice](#).

Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

