



# /guide

## Your questions answered

## WHAT HAPPENS WHEN A PARENT BREAKS A COURT ORDER?

**T**he purpose of this Stowe guide is to explain what you can do if the other parent breaks a court order.

When parents cannot decide arrangements for their children once they have separated the court can issue a child arrangements order to clarify a child's living arrangements.

This order is legally binding, and if a parent breaches it they will be in contempt of court which could mean fines, enforcement orders and even imprisonment (although this is extremely rare).

### What can I do if my partner breaks or breaches a court order?

If you are experiencing difficulties with a child arrangements order, including minor or major breaches, **it is advisable to keep a diary of these**. This means you will have a clear picture of the difficulties you have faced.

Then I would advise my client to try and discuss the breach (s) with the other parent in the hope that they can **reach an agreement without having to return to court**. The court process can be stressful, timely and expensive.

Another option is to use **mediation as a neutral forum** with a third-party to try and resolve the disagreements. However, in some cases, it is not possible to discuss or agree on arrangements and, therefore, the matters must be returned to the court to enforce the original order.

### How do you enforce a court order?

**An application for enforcement is made on a Form C79**. Enforcement proceedings must be dealt with without delay and, if possible, listed before the judge that dealt with matters previously. A hearing will be listed within 20 working days of the application been issued.

### What will the court consider when deciding to enforce an order?

Once the court receives an application to enforce a child arrangements order, they will consider the following:

- Whether the facts for the alleged non-compliance are agreed or whether it is necessary to conduct a hearing to establish them
- The reasons for any non-compliance
- The wishes and feelings of the child

- Whether any advice is required from Cafcass on the appropriate way forward
- Assess and manage any risks of making further or other child arrangements orders
- Whether a separated parents information programme or referral for dispute resolution is appropriate
- Whether an enforcement order may be appropriate and
- The welfare checklist

## What are the penalties for a breaching a court order?

At the top of all child arrangements order, there is a warning notice that sets out the consequences to both parties about what will happen if they do not comply with the order.

There are **several powers available to the court** when considering an application to enforce and these are as follows:

- Referral of both parents to a separated parents information programme or mediation
- Unpaid work requirement of between 40 and 200 hours where the court is satisfied beyond a reasonable doubt that one party has failed to comply with a provision of the order
- Committal to prison (in very rare/serious cases)
- Changing which party the child or children live with (in very extreme/serious cases)/variation of the child arrangements order to include a more defined order
- A fine
- An order for compensation for financial loss
- A contact enforcement order or suspended enforcement order

## Can you get a court order changed?

If circumstances change once a child arrangements order has been made, then it might be necessary to ask the court to vary the order if an agreement cannot be reached between the parents.

**You will need to complete a C100 application form** and explain why you are asking the court to vary the current child arrangements order.

The court will only **vary a child arrangements order if they consider it to be in the best interests of the child to do so.**

## Can court orders be overturned?

It is possible to appeal decisions made by the family court, and I would advise anyone considering this to take legal advice on their individual circumstances.

## What can I do if I think my child is at risk?

If you consider that your child is at risk, then you should seek urgent legal advice on the steps you can take to safeguard your child.

Depending on your circumstances, it may be necessary to make an urgent application to the court.

## Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit [www.stowefamilylaw.co.uk](http://www.stowefamilylaw.co.uk)



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