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Family

Winter 2014

## Children to be given a greater say in family courts

The government has announced that children will be given a greater voice in the family justice system so that they can express their opinions about disputes that affect their lives.

Ministers say children as young as 10 will be able to make their views known to the judge dealing with their case.

It follows a campaign by the Family Justice Young People's Board, which believes that it is wrong for decisions to be made that will affect young people's futures without them having a say themselves.

The Ministry of Justice will work closely with the Children and Family Courts Advisory and Support Service and Family Court judges to implement the change, which will be made as soon as practically possible.

The government also plans to help children find an appropriate mediator for cases that affect them.

Family Justice Minister Simon Hughes said: "Children and young people must by law have their views heard before decisions are made about their future, and where decisions are made that will impact



them. At the moment, it is still too often that their views are not heard.

"Our commitment to giving children the chance to speak to a judge and make clear their views means children will not only be seen in family courts but they will have

their own voice heard. This will put them firmly at the heart of the Family Justice System."

Please contact us for more information about the issues raised in this article or for advice on any aspect of family law.

## Leading judge lays out plans for divorce reform

One of Britain's leading family law judges is calling for changes in the divorce process that would take most cases out of the courts altogether.

Sir James Munby is the President of the Family Division of the High Court. He wants uncontested divorce cases without any claims over money or children to be settled in a national processing centre. There are 120,000 divorce cases every year in the UK. It's hoped that the changes would make the process more straightforward and less acrimonious.

Sir James said: "Divorce, as a process, is in large measure administrative, albeit conducted judicially by district judges. It



lends itself to handling in a few places and perhaps, eventually, in a single national processing centre."

Resolution, the association of family lawyers, said it supported the idea together with anything else that would "make the divorce and separation process more straightforward and easier to navigate for separating families".

A working group has been set up to see how such changes might be implemented. We shall keep clients informed of developments.

Please contact us for more information about the issues raised in this article or any aspect of family law.

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# Government approach to mediation 'not good enough'

Leading family lawyers have expressed disappointment and concern at the government's approach to funding mediation sessions for divorcing couples.

The Family Justice Minister, Simon Hughes, recently announced that separating couples will be entitled to one free mediation session as long as at least one of them qualifies for legal aid.

This is an improvement on the previous arrangement which meant that only the legally aided party got the session for free, with the other one having to pay. However, the change doesn't go far enough for most family lawyers.

Jo Edwards, chair of the family lawyers' group Resolution, said the change would make little difference because government cutbacks meant there are only a limited number of cases where even one party qualifies for legal aid.

Despite the lack of government funding, divorcing couples should seriously consider using mediation as it often proves to be cheaper and far less stressful than going to court.



Discussions overseen by a trained mediator are more likely to reach resolutions to issues like financial settlements and contact arrangements for children. The resulting agreements can then be made into a legally binding court order.

Please contact us if you would like more information about the issues raised in this article or any aspect of family law.

## Mother given chance to take children abroad

A mother has been given a second chance to try to leave the UK despite a judge's concerns that she was only doing so to take her children away from their father.

The case involved a German couple who had two children aged four and two who had both been born in England. The couple's relationship broke down and the mother decided to return to her family in Germany.

Her application was refused because the judge concluded that she only wanted to emigrate in order to restrict the father's contact with the children and to weaken his relationship with them.

The Court of Appeal has now overturned that decision. It held that the judge's view about



the mother's motivation was not borne out by the evidence.

There was no proof that the mother had tried to limit the father's contact with the children. The contact arrangements were relatively generous and the mother had complied with the agreed orders. The application will now be heard by another judge.

Please contact us if you would like more information about the issues raised in this article or any aspect of family law.

## Father denied contact with son

A father has been denied direct contact with his son after the court heard that the boy didn't want to see him.

The boy's parents separated shortly after he was born. The father maintained contact with his son until the mother became suspicious that the boy had been injured during a visit.

The mother applied to have the contact order suspended but the court ruled that the allegations were unfounded.

However, the son maintained a negative view of his father. They tried family therapy but it was unsuccessful.

The judge ruled that the father would have no direct contact with his son as it would cause distress to the boy to force visits on him against his will.

The Court of Appeal upheld the decision, stating the son's negative mind-set towards his father was so strong that it wasn't in his best interests to allow the father direct contact.

Please contact us for more information about the issues highlighted in this case or any aspect of family law.

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