



Synnott
Lawline
Family Law Advice & Services



Access to your Children Factsheet

Professional Legal Advice

At Lawline Family Law Solicitors, our ethos is to ensure that our clients get expert legal advice. We are committed to achieving access to justice for all our clients. Our initial priority is to clearly understand the needs of our clients as every individual's case has a unique set of circumstances. Our legal team strives to achieve the best outcome for every client.

What Is Access?

Access is the right of a child and a parent and/or guardian who do not live together to spend time together. This right can also be granted to certain relatives and others. Access to children refers to a right to spend time with the child, the right to take the child or children out for specified periods of time and may also encompass the right to have the child reside with you at certain specified dates / times and go on holidays with you.

Who Can Apply For Access?

Where the parents of a child / children separate and there is no agreement regarding access, an application can be made to the Courts to decide the matter.

When the Court decides upon these matters, the most important factor will be the welfare / best interests of the child / children in question. It is usually the case that the Court will see the child's best interests are served by fostering a relationship with both parents and the Courts are extremely slow to deny access rights to the parent of a child / children.

Unmarried Parents

Under Irish law, the unmarried mother is the sole guardian of any child born outside of marriage. An unmarried father may apply for access whether or not he is a guardian. This application for access can be made regardless of whether or not he is named on the child's birth certificate, and even where his application for joint guardianship has been turned down. (If it is the case that both access and guardianship are being applied for, the Court requires two separate applications to be made. However, these applications may be heard at the same time.)

Unmarried mothers usually have custody of their child / children granted, unless there are extenuating circumstances. Whereas, the unmarried father is usually granted access rights.

Same-Sex Couples

Where same-sex relationships break down, and one party wishes to continue to have contact with the former partner's child. Section 55 of the Children and Family Relationships Act 2015 has amended the Guardianship of Infants Act 1964 so that a person with whom a child resides or has previously resided can apply to the District Court for access to the child.

Grandparents

Section 9 of the Children's Act 1997 amended the Guardianship of Infants Act 1964 so that a relative, such as a grandparent, can apply to the District Court for access.

How To Seek Access?

As stated above, where access cannot be agreed, you can make an application to Court for access sought and the Court will hear such application on a specified date and will make a ruling on the matter.

Where an agreement for custody and/or access is entered into and made in writing (including written agreements made during mediation), an application can then be made to court for an order to make that agreement a Rule of Court. The court may make an order if it is satisfied that the agreement is fair and reasonable and adequately protects the best interests of the child. The agreement then has the same standing as a court order. A written agreement that is not made a Rule of Court is NOT legally binding.

Can an Access Order be appealed?

If you are not happy with a decision made by the court you have 14 days in which to appeal. The terms of the order will come into force while waiting for the appeal unless a court directs differently.

What factors does the Court consider when hearing Access applications:

- The overriding priority is the child's welfare
- the applicant's connection with the child
- the risk if any, of the application disrupting the child's life to the extent that the child would be harmed by the access
- the wishes of the child's guardians
- whether or not an access order is necessary.

What To Do Where Your Access Has Been Restricted Or Denied?

You may apply to the Courts to impose an enforcement order if you have been unreasonably denied the access the court granted you. This Court may:

- You getting compensatory time with the child
- Your expenses being reimbursed
- One or both of you attending parenting programmes, family counselling or receiving information on mediation

Our legal team have experience in all legal issues relating to children and are on hand to answer questions and provide practical advice, peace of mind and a prompt conclusion to your case.

Contact our Family Law Department. We are here to Help

If either you or your spouse is contemplating an application for divorce please contact our family law department. One of our family law specialists will be happy to discuss your case with you in absolute confidence and will provide guidance and expertise on how best to represent your interests in the context of divorce.

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