



BATH FAMILY LAW
LLP

What is the Welfare Checklist?



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When parents separate, the primary focus of family proceedings is: "What's in the best interests of the child/children?" To answer this question, the court (and other professionals) are guided by criteria known as the Welfare Checklist.

The Welfare Checklist is found in Section 1 of the Children Act 1989, and includes the following considerations:

- The wishes and feelings of the child concerned (considered in light of their age and understanding)
- Their physical, emotional and educational needs
- The likely effect on them of any change in circumstances
- Their age, sex, background and any other characteristics which the court considers relevant
- Any harm which they have suffered or are at risk of suffering
- How well each parent/carer can meet the child's needs
- The range of legal powers available to the court.



The wishes and feelings of the child

The law does not define at what age the court will begin to take the views and opinions of a child into consideration. It depends on the individual circumstances, the child's maturity and their understanding of the situation. In general, more emphasis is placed on what a child wants from the age of 11 upwards.

It's very important the court is satisfied that these are the true wishes and feelings of the child, and they are not just mirroring the views of a parent. In most cases, a specially trained social worker from CAFCASS (Children and Family Court Advisory and Support Service) speaks to the child and writes a report of their findings. In exceptional circumstances the Judge may talk to the child directly. It's important to note that even though the child's views and wishes may be taken into account, they won't necessarily dictate the final decision.

Physical, emotional & educational needs

The court must consider the physical, emotional and educational needs of the child (both short and long-term) and how these will change as they get older. Based on evidence submitted to the court, they will decide which parent is best placed to meet these needs now, whilst also providing stability for the child in the future.



Effect of any change in circumstances

This focuses on the potential impact of any proposed change in circumstances. For example, if a child is used to living in a particular location or attending a certain school and a non-resident parent applies for residence. The court will consider how moving home may affect the child, and will often select the outcome that results in the least disruption to their life.

Characteristics - age, sex, background

The court are required to consider the child's age and sex, their cultural and religious background and other characteristics specific to the child and their wider family.

Any harm suffered or at risk of suffering

The court will examine any evidence of harm the child has suffered or may be at risk of suffering in the future. Harm can take many forms – including physical, emotional or sexual abuse, neglect, and exposure to domestic violence or substance abuse. The court will consider the ability of each parent to provide safe and appropriate care, and will issue an order that may contain protective measures aimed at safeguarding the child.



How well each parent or carer can meet the child's needs

The court needs to consider the capacity of each parent to provide safe and appropriate care, including their financial stability and respective abilities to meet the child's physical, emotional and educational needs. They may also need to gather information about anyone else who has a significant role in the child's life (such as relatives or new live-in partners). No assumption should be made that one parent is better placed to cater for those needs - and no parent should feel dismissed under this factor due to their gender, sexuality, age, or disability.

Range of court powers available

The Children Act 1989 provides the court with a range of powers and orders that can be used to ensure a child's safety and wellbeing. These depend on the specific circumstances and needs of the child. They include:

- **Residence orders** – who the child lives with
- **Contact orders** – the frequency and type of contact the child has with the non-resident parent
- **Specific issue orders** – a decision on a single issue, such as which school the child should attend or what medical treatment they should be given
- **Prohibited steps orders** – stops a specific action, such as a parent taking a child out of the country without permission.



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