

# THE WELFARE CHECKLIST UNDER S1(3) CHILDREN ACT 1989 EXPLAINED

1

## THE ASCERTAINABLE WISHES AND FEELINGS OF THE CHILD CONCERNED

The court must consider the wishes and feelings of the child, taking into account the child's age and level of understanding in the circumstances. This will normally be determined by the Children and Family Court Advisory and Support Service (CAFCASS) or social services, and reported to the court. In some cases, a judge may speak directly with a child to determine their wishes and feelings if this is deemed necessary.

The court will take into account whether or not a child's wishes and feelings are their own, or whether outside factors may have influenced their decisions. There may also be a conflict of opinion between the parents'/guardians' views and that of the child. The court will balance the views of the parties concerned, including the views of a child who is of an understanding age and mature enough to form their own opinions.

2

## THE CHILD'S PHYSICAL, EMOTIONAL AND EDUCATIONAL NEEDS

The court will consider who is in the best position to provide for the child's emotional, physical and educational needs. A child's emotional needs can be more difficult to deal with, and the court will consider who is best able to provide for the emotional needs of the child – both short term and long term.

3

## THE LIKELY EFFECT ON THE CHILD IF CIRCUMSTANCES CHANGED AS A RESULT OF THE COURT'S DECISION

The potential impact of changes to the child's life will be considered. The court will aim to make an order that causes the least disruption to a child's life, however, this will be balanced against the other factors to be considered.

4

## THE CHILD'S AGE, SEX, BACKGROUNDS AND ANY OTHER CHARACTERISTICS THE COURT CONSIDERS RELEVANT

The court will consider specific issues such as religion, race and culture when making a decision about a child. They may also take the parents'/guardians' hobbies and lifestyle choices into account if they feel this will impact the child's life, either now or in future.

5

## ANY HARM THE CHILD HAS SUFFERED OR MAY BE AT RISK OF SUFFERING

The court will look at the risk of harm to the child. This means immediate risk of harm, as well as the risk of harm in the future. 'Harm' includes physical, emotional and mental harm. The courts will weigh up the potential risk of harm to the child in future and make an order as appropriate. An order may include safety measures to protect the child.

6

## CAPABILITY OF THE CHILD'S PARENTS (OR ANY OTHER PERSON THE COURT CONSIDERS RELEVANT) TO MEET THE CHILD'S NEEDS

The court will consider how able each parent is to care for the child and to meet their particular needs. This will be subjective and depend on the facts and circumstance of each case – the needs of the child and the abilities of the parents concerned.

7

## THE RANGE OF POWERS AVAILABLE TO THE COURT

The court must weigh up all the factors under the welfare checklist, and consider all available orders within their discretion. It will then make the best order available that is in the best interests of the child.