

Can My Former Partner Stop Me From Moving Away with The Children?

For separated parents life decisions moving forward can be complex and difficult particularly where one parent wants to move away.

If you are facing such a situation, where do you stand legally? Does your former partner have the right to stop you? Is there a limit as to how far you can move away or even to whether you can move at all?

If the children live with one parent and have contact with the other parent it is often assumed that should the primary carer wish to relocate then the children will be relocated with them and this cannot be challenged. However this is not the case.

Where possible it is best to come to an agreement together before moving away as this avoids the need to go to Court and the potential upset and cost involved. It can still be advisable to have the agreement formally documented and in some cases to obtain a court order by consent. If you and your former partner are on good terms they may agree to the move and areas on which there could be compromise may include:-

The location you wish to move to;

Assistance you could give them for them to visit;

A commitment from you to bring the children to them on a regular basis;

Their moving closer to where you live;

Or any other terms that might be relevant to you.

However the relocation of children especially abroad may inevitably have a considerable impact on the contact one parent will have with their children and so agreement between their parents is not always possible. Inevitably this is more likely where parents parted on bad terms.

If an agreement cannot be reached an application to Court can be made. The application could either be made by the parent seeking to relocate with the children, or by the parent seeking to prevent the move.

The likely outcome of the court application depends on multiple factors. The paramount consideration is the welfare of the child. There is guidance set out in relevant Case law but they are not applied rigidly and they are factors that are weighed by the Court in ascertaining what the best interests of the child are. They can include the impact of a refusal on the applicant parent, the effect on the child due to a reduction of contact with the other parent, and the impact on the other parent if the relocation took place.

Relocation cases can be very challenging for all parties involved. Out of court dispute methods such as Mediation are always worthwhile considering.

For advice about Family Law matters please contact Heather Weavill of Alison Fielden & Co (tel 01285 653261) (www.alisonfielden.co.uk)