

**2015+**

**Board of Management**

**Scoil Bhríde Nurney**

**2015+**



**Custody/Access/Separation Policy**

**Scoil Bhríde**

**Custody/Separation/Access Policy**

The Staff of Scoil Bhríde Nurney encourage parents experiencing separation to come and speak confidentially to the teachers and/or Principal. It is our aim to handle such matters with sensitivity and compassion, and ultimately, our primary concern is for the well-being and overall development of the child.

The following are the key procedures in place with separated parents of pupils in the school:

* When a child spends time in two homes, it is requested that the school be provided with both sets of emergency/contact numbers
* Regarding the collection of child/ren from school - it is requested that the school be informed of any changes in collection arrangements in writing
* It is the school policy to offer the option of separate parent/teacher meetings, if so desired. However, for the child’s sake we recommend that both parents attend together. Each parent has a right to attend such meetings and receive school reports unless there is a court order to the contrary.
* It is assumed that when we wish to communicate with parents regarding their child, the parent who is contacted (i.e. the parent with whom the child principally resides) will inform the other parent of meetings, arrangements etc. Special requests for separate communication can be accommodated provided it is submitted in writing.
* Regarding notes, school communication via schoolbags, school reports etc, it is assumed that the parent with whom the child principally resides will keep the other parent informed. All weekly school news can be accessed on the school website.
* In the absence of a custody arrangement, both parents will be treated as equal partners in terms of parenting rights and responsibilities
* The school cannot be asked to withhold a child from either parent in the absence of a court order – note, a solicitor's letter is not a court order
* If there is a serious concern about a parent abducting or leaving the country with the child, the parents/guardian should request their solicitor to seek a court order instructing the school and any other carers regarding rights of access
* In the case where the estranged parent/guardian is not known to the class teacher, as may be the case in larger schools, the concerned parent/guardian should provide a family photograph enabling the class teacher to identify the person in question
* In the case of unmarried parents, the natural father has no custody or guardianship rights unless a court or the natural mother grants those rights to him. The onus is on the father to produce evidence of a court order in the case of a dispute regarding the collection of a child during or after school. (See Notes below)
* Teachers are under no legal obligation to provide any reports about a child if requested to do so by any third party (e.g. Solicitor/psychologist)
* Teachers are not obliged to attend court unless under subpoena or summons
* In the case where a legal order is in place, a copy of this order must be furnished to the school
* The parent/guardian of each child has full responsibility for informing the school in writing of any change in circumstances at home e.g. separation, divorce, custody arrangements
* Teachers are expected to
  + act in a fair, open and even-handed manner in respect of both parents
  + facilitate separate meetings if applied for in writing, if for good reason, both parents cannot attend together
  + comply with the parent who has de facto day to day control of the child in the event of a dispute
  + pass relevant information from one teacher to another within the school as needed
  + If in any doubt, a teacher should seek advice from the Board of Management.

***Notes re.* Guardianship/Custody**

* Married parents are ‘Joint Guardians’. The mother of a non-marital child is the sole guardian. A Guardian is a person legally entitled to parental rights and duties in relation to a child.
* One of these rights is custody. Custody is the right to physical care and control of the child.
* If a guardian is deprived of custody rights by a Court they still retain a say in relation to matters regarding a child’s welfare ie the religious, moral, intellectual, physical and social welfare of the child. They can also be awarded access.

***Notes re.* Acces Rights to Children**

The issue of child custody, as it applies to the right of either parent/guardian to collect their child(ren) from school is often highly charged with emotion and great pressure is put on Principals.

The classic scenario presents where one parent will inform the principal that there is a relationship breakdown with the added hypothesis of the likelihood that the estranged parent may collect the child and abscond. Such a scenario is quite frightening and presents nightmare images. However, from the Principal's perspective there is no basis for the class teacher or Principal to deny either parent or guardian the right to collect his/her child from school unless there is a court order instructing the school otherwise. A solicitor's letter is not a court order. Anyone can ask a solicitor to write a letter on their behalf but it has no legal standing.

There is widespread judicial thinking that Access is really a right of a child to see its own parent rather than a parental right. Access is only denied by the Courts in exceptional circumstances where there is credible evidence to suggest that any degree of access under any conditions would likely to be injurious to the welfare of the child.

**Some recommendations:**

1) Inform the parent/guardian that requests for denial of access to the other partner are outside the jurisdiction of the school and therefore the school is unable to pass judgement on rights of access/collection

2) Suggest that if there is a serious concern about abduction or leaving the country with the child(ren), then the parents/guardian should request their solicitor to seek a court order instructing the school and any other carer’s of the child(ren) regarding rights of access/collection etc

3) Meanwhile, the school can offer maximum cooperation and support to the concerned parent/guardian along the lines of:

* That the Principal assures the concerned parent/guardian that maximum awareness and attention will be given by the class teacher and others in the school who are involved in the care of their child(ren) with respect to all aspects of parent-school communication and the collection of children.
* In the case where the estranged parent/guardian is not known to the class teacher (often the case in larger schools), then the concerned parent/guardian should provide a family photograph enabling the class teacher to identify the person in question.

These practical measures can in no way deny either parent/guardian access to their child(ren) but are based on basic humanitarian support for a distressed parent/guardian. Ultimately only a court order can change the existing rights of both parents/guardians.

**Ratification of Custody/Separation/Access Policy**

This policy was adopted by the Board of Management on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chairperson of Board of Management Principal

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of next review: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_